Proceedings of the Council

OF THE

LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

Vol. XV—1883.

Published by Authority of the Council.

Calcutta:
PRINTED AT THE BENGAL SECRETARIAT PRESS.

1883.

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FOR

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PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR THE

Purpose of making Laws and Regulations.

Saturday, the 6th January 1883.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR, *Presiding;*
The HON. G. C. PAUL, C.I.E., *Advocate-General;*
The HON. H. L. DAMPIER, C.I.E.;
The HON. H. J. REYNOLDS;
The HON. C. P. L. MACAULAY;
Colonel the HON. S. T. TREVOR, R.E.;
The HON. T. T. ALLEN;
The HON J. E. CAITHNESS;
The HON. BHUDEB MOOKERJEE, C.I E.;
The HON. MOULVIE MAHOMED YUSUF; and
The HON. HARBUNS SAHAY.

BENGAL MUNICIPALITIES.

THE HON. MR. REYNOLDS introduced the Bill to amend and consolidate the law relating to Municipalities, and moved that it be read in Council.

He said:—"I wish to preface what I have to say by asking the indulgence of the Council for any defects which may be apparent in the form or wording of the Bill. The Bill has been prepared under some pressure, in consequence of the numerous holidays which have intervened since leave was given to bring in the Bill; and the Council are also aware that legislation in this Council is conducted under some difficulties in consequence of our not having the assistance of a trained professional draftsman. The arrangement of the Bill is not altogether what I should have wished to make it, and probably some repetitions will be found in the wording of the sections; but to have recast the Bill would have involved considerable delay; and the Government was anxious that the Bill should be placed before the Council and the public on as early a date as possible, with a view to obtaining an expression of opinion on its substantive provisions.

I think I need not detain the Council with any remarks on the preliminary sections, or upon Part I of the Bill. The sections of Part II which relate to the constitution of Municipalities have been drawn in accordance with the outline which I sketched when I asked for leave to introduce the Bill. It will be seen that the limitation of the elective system, under the proviso appended to section 16 of the present Act, is omitted, and section 17, which refers to the appointment of *ex-officio* Commissioners, has been struck out. Two-thirds of the Commissioners in every Municipality, unless the Lieutenant-Governor shall specially direct otherwise, will be elected by the rate-payers. The Chairman will be either appointed by Government or elected by the Commissioners, and both the Chairman and the Vice-Chairman will hold office for three years. The alterations in the rest of this Part are of no great importance.

In Part III, which refers to the Municipal Fund, I would ask the attention of the Council to section 64, which corresponds to section 66 of the present Act. The Act directs that the Municipal estimates shall be transmitted to the Magistrate of the district, and shall be forwarded by him to the Commissioner of the division. In the Bill it is declared that the estimates are to be sent to such controlling authority as the Government may direct. Instead of using this circumlocution, I should have liked to say at once that the estimates were to be sent to the Local Government Board. I should be glad to see a Central Board established in Calcutta, with controlling and supervising powers over both Municipalities and Local Boards; such a Board would not only usefully supply the place of the Magistrate and the Commissioner, but it would relieve the Government of many matters of detail. Many of the functions and duties which this Bill assigns to the Lieutenant-Governor might very suitably be delegated to the Local Government Board. I hope the establishment of such a Board will before long be an accomplished fact, but in the meanwhile it would have been premature to make any direct reference to it in drafting the Bill. The wording of the section and of some subsequent sections which speak of "the controlling authority," can, if necessary, be altered when the Bill is in Select Committee.

Part IV deals with the somewhat thorny question of Municipal taxation; and here it will be found that the taxes which may be generally imposed on Municipalities are strictly limited to those taxes which may be levied by the present law. No general power of extending taxation is given by the Bill; the additional rates referred to in section 75 are confined to those Municipalities to which special provisions of the Bill may have been extended at the request of the Commissioners themselves. It is neither desirable nor likely that these provisions will be had recourse to very largely, but as the Bill is intended to meet the wants of all classes of Municipalities it is necessary that it should provide for the requirements of the wealthiest and most advanced cities as well as of the humbler towns. With the general adoption of the elective system, there need be no apprehension that the powers thus given will be abused.

Part V does not materially differ from Part VI of the present Act, and Part VI in substance corresponds to Part VII of the Act. It would, in my

opinion, be an advantage if both these parts were greatly curtailed. They are full of minute directions and matters of detail which would find a more suitable place in bye-laws than in the body of the Act. But this is a matter which can most properly be considered in Select Committee: and I have thought it best to adhere, provisionally at least, to the general form of the existing law.

Part VII of the Bill is drafted with little more than verbal alterations upon the chapter of the Calcutta Municipal Act which relates to the water-supply. Part VIII of the Bill, which refers to lighting with gas, is similarly taken from the Howrah Lighting Act of 1873. Part IX is almost entirely a reproduction of the present Bengal Act VI of 1878. That Act can only be extended to Municipalities of the first class: but as no distinction is made in the Bill between different classes of Municipalities, Part IX can be applied to any Municipality to which the Commissioners may ask to have it extended.

The three remaining Parts of the Bill are based upon the present Municipal law.

Such, Sir, is a summary of the measure which I have the honour to lay before the Council. It is an honest attempt on the part of the Government to redeem the pledge which has been given, that the management of local affairs shall be left, as far as possible, in the hands of the people themselves. The extension of the elective system will ensure (as far as such a thing can be ensured by legislation) that the Municipal Commissioners will be gentlemen who are willing to give their attention to local matters, and who are recognized by their fellow citizens as the best guardians of local interest. Only those who fulfil the former of these conditions will seek for election: only those who fulfil the latter will obtain it. I am not one of those who anticipate that there will be any difficulty in finding properly qualified persons ready to offer themselves as candidates. The public mind has been deeply stirred on the subject, and the first elections, at any rate, under the new system are sure to excite abundant interest. But if this is the case, it may confidently be expected that the interest will not fall off in future years. In proportion as the Commissioners find that they have real powers and responsibilities entrusted to them, the honour of a seat at the Municipal Board will more and more become an object of healthy and legitimate ambition."

His Honor the President said he was not aware whether any Hon. Member of Council wished to speak on the Bill at its present stage; but if it was the wish of Hon. Members, and considering that there had not been time enough to master the details as presented in the Bill now before them, it would be quite easy to defer reference to the Select Committee to next week, when they might have an opportunity of expressing their views. But if there was no intention of discussing the details until the Bill had passed through Select Committee, it might now at once be so committed.

The Hon. Mahomed Yusuf said he thought the discussion on the Bill had better take place after it had been reported upon by the Select Committee.

His Honor the President said he also wished to make a suggestion that, in addition to the reference to Select Committee, some action might be taken for

giving the Bill circulation, and he thought that a copy of the Bill as introduced should be forwarded to all Chairmen of Municipalities in view to the expression of any remarks they might wish to make while the Bill was under discussion in Select Committee. Discussion in Select Committee would not be delayed thereby, because, HIS HONOR supposed, it would take fully two months before the report of the Select Committee was made on it. This would give an opportunity to any local bodies to bring forward their objections, or concurrence, or remarks or suggestions in connection with the Bill, which he thought was a desirable matter.

The motion was put and agreed to.

The HON. MR. REYNOLDS moved that the Bill be referred to a Select Committee, consisting of the HON. MR. DAMPIER, the HON. MR. ALLEN, the HON. MR. MACAULAY, the HON. MAHOMED YUSUF, the HON. HURBANS SAHAI, and the MOVER.

The motion was put and agreed to.

ROAD TRAMWAYS.

COLONEL THE HON S. T. TREVOR introduced the Bill to authorise the making and to regulate the working of road tramways in Bengal, and moved that it be read in Council.

He said:—"Sir, I beg to move that the Bill to authorise the making and to regulate the working of road tramways in Bengal be read in Council. The original draft of this Bill was sent on the 30th September last to all Commissioners of Divisions and to the Chairman of the Corporation of Calcutta with a circular asking for an expression of opinion on the provisions of the Bill; and in reply to it we have received several valuable criticisms and suggestions for amendment. These have been carefully considered, and the first draft has been altered and modified in several respects. The Bill is divided into five Parts. The first of these prescribes the procedure to be followed by local authorities and other promoters in bringing forward and obtaining sanction to their projects. The term "local authority" includes the Commissioners of any Municipality, whether appointed or elected, as well as any Board, Committee, Council, Department, or person vested with the power to make or maintain roads; and any local authority or other promoters with the consent of a local authority may apply in the usual manner for the sanction of the Local Government to any proposed scheme of tramway, that is by submitting a memorial descriptive of the undertaking accompanied by plans and estimates of the works, a copy of the agreement proposed to be entered into, and a copy of the resolutions and proceedings of the local authority in which their approval of the intention to make the application is formally recorded. The Bill requires that this resolution should be passed at a special meeting of the members constituting the local authority, of which at least one month's previous notice has been given. The notice must require that all objections to the proposed scheme be filed before the date fixed for the meeting, and the meeting must be attended by at least two-thirds of the members constituting the local authority. These provisions are considered necessary in order to ensure that all tramway schemes

shall be approved by a proper majority of the representatives of the rate-payers before the revenues at the disposal of local authorities can be committed to such schemes or concessions be granted by them to other promoters. Sections 6 to 9 of the Bill describe how the sanctioning order of the Local Government is to be given and published, and how it may be revoked or amended, and Hon. Members may observe that large powers are reserved to the Local Government to fix all details of each scheme according to the nature of the application, and the facts and circumstances of each case, as it thinks fit. This, I think, is absolutely necessary, for it would be very inexpedient, even it were possible, to lay down any hard-and-fast rules by which all agreements to be made hereafter between promoters and local authorities should be stereotyped on one uniform pattern, whether as to the nature of the concessions to be granted, or the sort of tramway to be built. Sections 10 and 11 give the necessary powers to local authorities to use the moneys at their disposal for the purposes of tramways, and to credit the income that may be derived from them.

"Part II of the Bill deals with the details of the construction of tramways, granting the necessary powers for breaking up roads for the purpose of laying or repairing rails, and prescribing rules for doing this so as to inconvenience the public and obstruct traffic as little as possible. Sections 17 and 18 are framed to protect the rights of the public to the free and unrestricted use of roads on which tramways may be laid for ordinary traffic, *i.e.* with carriages not having flange wheels or wheels suitable for running actually on the tramway rails. But this right is limited to public roads, and does not extend to new roadways, embankments or earthworks that may be constructed or acquired by promoters for the exclusive use of their tramways.

"Part III deals with the question of the powers necessary to enable local authorities or promoters to run carriages on their tramways, to fix rates, and to levy fares and charges. Powers are granted to local authorities as well as promoters to make bye-laws of the usual kind for regulating the rate of speed and other details of traffic and for preventing disturbances, the commission of nuisances, the entry of persons suffering from infectious diseases, and so on. Section 2 reserves to promoters the exclusive right to the use of their tramways for carriages specially adopted for running on them.

"Part IV deals with the subject of penalties and offences. The several clauses are drawn with very little variation from the Calcutta Tramways Act, and there is no need for me to take up the time of the Council in describing them in detail.

"Part V contains new clauses which deal with miscellaneous matters. Clause 36 provides for the settlement of any difference that may arise between the promoters and the local authority or other persons or companies affected by the operations of the promoters, by the arbitration of an Engineer or other fit person to be nominated by the Local Government as referee on the application of either party to the disputes. This clause is adopted from the English Tramways Act, and as it was included in the draft Bill, I have left it for further consideration by the Special Committee. But in the Calcutta Tramways Act

there is no arbitration clause in the Act itself, though there is one in the agreement between the Corporation and the grantees which is appended to the Act as a schedule. In this, provision is made for the appointment of an arbitrator by each party, and of an umpire by the arbitrators in case the latter do not agree. I think the Bill should certainly contain an arbitration clause, but it is a question which can be further considered in Select Committee whether the form of it had better be that of a referee to be nominated by Government, or of joint arbitrators to be nominated by the parties to the dispute. Clause 38 reserves power to local authorities and the police to regulate traffic on roads on which tramways may be laid, and clause 39 reserves to all persons having the necessary authority to execute works on such roads, powers to continue to execute such work, with the usual provisoes for causing as little detriment as possible to the interests of the promoters of the tramway. Clause 4 provides for the removal of tramways in the event of discontinuance, clause 41 for the proceedings to be taken in case of insolvency of promoters, and clause 42 for the purchase of tramways by local authorities at the end of twenty-one years and at succeeding periods of seven years afterwards. In the original draft of the Bill this purchase clause included the terms on which the purchase should be effected as contained in the Calcutta Tramways Act. I intended in the revised draft to omit any specification of the terms of purchase, as it seems more expedient to leave these to be settled by agreement between local authorities and promoters before sanctioning any scheme of tramway. I find, however, that through inadvertence the Bill, as now presented to the Council, contains a specification of the terms of purchase, though not the same terms as in the original draft. This is a point to which I shall ask attention when the Bill is considered in Select Committee. I need not detain this Council by describing the Bill at any greater length. I now beg to move that it be read in Council."

The motion was put and agreed to.

He also moved that the Bill be referred to a Select Committee consisting of the HON. MESSRS. REYNOLDS, ALLEN, BHUDEB MOOKERJEE, MAHOMED YUSUF, HURBANS SHAHAI, and the MOVER, with instructions to report in six weeks.

The motion was agreed to.

AMENDMENT OF THE CALCUTTA PORT IMPROVEMENT ACT.

The HON'BLE MR. REYNOLDS moved for leave to introduce a Bill to amend Bengal Act V of 1870. This was but a small measure, and he need only trouble the Council with a few words on it. The Port Commissioners had applied to the Government for sanction to certain plans and estimates for the construction of a tea warehouse which they proposed to erect at Armenian ghât. The scheme had been under consideration and discussion for the last six years, and the Chamber of Commerce and a considerable majority of firms interested in the tea trade were in favour of the proposals being sanctioned. He thought it was apparent that it would be a great convenience to the traffic to have a central warehouse in a suitable position like Armenian ghât, close to the banks of the river, from which chests of tea might be easily shipped without being exposed to the unnecessary handling and risk of breakage to which they were at

present subject. He thought also that this warehouse would tend to relieve the streets of Calcutta of some portion of the cart traffic.

But, as the Council was no doubt aware, under the present practice of the trade the greater part of the tea shipped from Calcutta was sold previous to shipment. Whether that was a practice which was advantageous to the Indian tea-grower it was not for MR. REYNOLDS to say: but it was undoubtedly the existing practice, and so long as this practice prevailed, the convenience of the tea warehouse would be neutralized, or at least greatly diminished, unless accommodation were provided in the warehouse itself for the sampling and selling of tea previous to shipment. The Government, however, was advised that, under the law as it stood at present, it was not open to the Port Commissioners to erect a warehouse which should have for one of its objects the provision of facilities for the sampling and selling of tea. Section 39 of the Calcutta Port Commissioners' Act empowered the Port Commissioners to construct warehouses and sheds for conveying, receiving, and storing goods and merchandise landed or to be shipped. The object of the present Bill was somewhat to extend this power, and to give the Port Commissioners authority also to provide accommodation in such warehouses for the sampling and sale of such goods and merchandize.

The motion was put and agreed to.

The Council was adjourned to Saturday, the 13th instant.

Saturday, 20th January 1883.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR, *President;*
The HON'BLE G. C. PAUL, C.I.E., *Advocate-General;*
The HON'BLE H. L. DAMPIER, C.I.E.;
The HON'BLE H. J. REYNOLDS;
The HON'BLE C. P. L. MACAULAY;
Colonel the HON'BLE S. T. TREVOR, R.E.;
The HON'BLE T. T. ALLEN;
The HON'BLE J. E. CAITHNESS;
The HON'BLE BHUDEB MOOKERJEE, C.I.E.;
The HON'BLE MOULVIE MAHOMED YUSUF; and
The HON'BLE HARBUNS SAHAY.

AMENDMENT OF THE EXCISE ACT.

THE HON. MR. REYNOLDS moved that the Bill to amend the Bengal Excise Act, 1878, be passed, and in doing so he said that the debateable questions connected with this Bill were so fully discussed when the measure was last before the Council, that it was unnecessary for him to detain the Council with any further remarks on the present occasion.

The HON. AMEER ALI said he proposed to vote among the dissentients on this motion, and he therefore begged His Honor the President's permission to say a few words in explanation of his vote. He had the honour of being

a member of the Select Committee on this Bill, but his absence from India prevented him from taking part in the deliberations of that body, or assisting the Committee with any suggestions which lay in his power to offer. But having read the reports of the debates which had taken place in Council, he found that he agreed in the main with the remarks of RAI KRISTODAS PAL and the hon. member opposite (Moulvie Mahomed Yusuf). Therefore he did not think it would be right to give his vote in favour of the passing of the Bill without stating that he agreed with those hon. members in their views as to the sale of the fresh tari of the palm or date-tree. He merely said this to explain how he was obliged to vote.

The motion was put and carried, and the Bill passed.

EXTENSION OF LOCAL SELF-GOVERNMENT.

THE HON'BLE MR. MACAULAY said:—"I have the honour to move for leave to introduce a Bill for the extension of Local Self-government in these Provinces. As, from various causes which I need not specify, there has been considerable delay in the preparation of the Bill, and as the Council will not again assemble for a fortnight, it will probably be expected that I should at this stage give a general exposition of its provisions. Before I proceed to do so, it may be convenient if I lay before the Council a brief sketch of the circumstances which have attended the initiation and development of this measure. When Lord Mayo's Government determined upon the adoption of a scheme of financial decentralization in 1870, it recognized, as the ultimate outcome of its action, something beyond a mere division of financial control between the Imperial and Local Governments. It declared that the full meaning and integrity of the measure comprehended the development of Self-government, the strengthening of Municipal institutions, and a larger association of Natives and Europeans in the administration of affairs. It recognized that the practical adoption of these principles could only be gradual, that difficulties would be felt, and that disappointments and partial failures would occur; but it expressed Lord Mayo's generous conviction that, the object in view being the instruction of many peoples and races in a good system of administration, the Local Governments and all their subordinates would enlist the active assistance, or, at all events, the sympathy of many classes who had till then taken little or no part in the work of social and material advancement. This declaration of policy was followed in Bengal by the organization, under Sir George Campbell, of District Committees for the administration of the road cess, of District School Committees for the control of education, and of a system of Benches on which Honorary Magistrates were associated with the stipendiary officers. Subsequently, the laws relating to Municipalities were amended and enlarged under Sir Richard Temple's Government, and an elective constitution was introduced into Calcutta, and, later on, into three Municipalities in the interior. In 1877 a further step was taken in financial decentralization, and the Local Governments were allowed a share in the development of important branches of the revenue, as they had been allowed in 1870 an interest in the control of

expenditure. I need not detain the Council by enlarging upon the eminent success of this further measure of decentralization in the hands of Sir Ashley Eden. Nor need I enter into a detailed explanation of the causes which have operated to dwarf the effect of the elective provisions contained in Sir Richard Temple's General Municipal Bill. It will be sufficient for me to say that a provision which was intended simply as a check on the indiscriminate extension of the elective system to places to which it might be unsuited has operated practically to exclude from that system all the large and advanced Municipalities to which it was intended to apply. This and other defects will be fully remedied in the Bill which has been introduced by my Hon'ble friend Mr. Reynolds. Experience has amply justified Lord Mayo's anticipations. Difficulties have been encountered; disappointments and failures have occurred. That decentralization would prove fiscally successful in the hands of such a man as Sir Ashley Eden, with broad and liberal views of financial administration, with keen insight and great power of forecast, was naturally to be expected. But from a variety of causes, arising from the constitution of the local bodies, the degree of power and responsibility entrusted to them, the extent of the funds to be administered, and other conditions which need not be detailed, there can be no doubt that the advance made in the development of Self-government has been comparatively small. It was reserved to the present government of India to grasp the opportunity of the expiry of the provincial contracts of 1877 to reaffirm the principles laid down by Lord Mayo, to determine upon a further practical development of his intentions, and to appeal to the Provincial Governments to revise the system of control so as to loosen the trammels which have hitherto hindered the administrative education, and marred the utility, of the Local Bodies. And that appeal will not be in vain. The twelve years that have elapsed since Lord Mayo's Resolution was issued, if they have witnessed no large strides in Self-government itself, have seen a great increase in the material prosperity of Bengal, and a great advance in the development of wealth, the opening of communications, and the dissemination of knowledge. The material is undoubtedly ready for the undertaking. Nor will this Government or its officers be found wanting. Sir Ashley Eden, in laying the original scheme before the Commissioners of Division, directed me to declare to them that it must be accepted as the settled policy of Government to develope among the local bodies a genuine and intelligent interest in the management of local affairs, and he appealed to all the officers of his Government for loyal co-operation in giving to this policy the fullest effect compatible with the interests of the province. In pursuance of these principles, he afterwards took the earliest opportunity of relieving Municipalities in the interior of the charges for Police, and thus made available a large sum for expenditure on local improvements. You, Sir, have determined that Local Self-government shall have free scope and liberal countenance in Bengal. You have decided to place that policy upon a thoroughly sound basis resting upon a wise recognition of the importance of the movement, and utilizing the many forces that are available for the attainment of the great end before us. As the Council will observe from

the scheme which I am about to lay before it, the policy will receive at your hands no hesitating encouragement, no half-hearted support. And your efforts will be seconded by the District Officers of Bengal. It has been a familiar cry among a certain class of writers during the past few months that the Commissioners and District Officers must resist the policy of Local Self-government as tending to diminish their power and lower their prestige. The members of the Civil Service have been depicted as enemies of liberty and progress, greedy graspers at petty power, selfish and narrow-minded opponents of all that is generous and liberal in policy. Sir, the Civil Servants of Bengal need no apologist in me Their works are too well known, their solicitude for the good of the people among whom they pass their lives too deep and true, to require that they should be defended at my hands. Differences of opinion on questions of policy must always be expected; and it would be strange indeed if such differences were not elicited in the discussion of such a question as this. But the great majority of the officers of this Administration have distinctly announced their hearty concurrence in the policy of this measure, and have recognized that, far from lowering their prestige or diminishing their power, it will, if properly initiated and developed, place that prestige upon a higher footing, and open that power to broader and nobler aims. The papers which I shall have the honour of laying before the Council will leave no doubt that your officers will co-operate heartily in the advancement of this great measure, as they have always co-operated in any measure that promises to contribute to the enlightenment and welfare of their fellow-subjects.

The three main points to be considered in framing a scheme of Local Self-government are the constitution of the local bodies, the control to be exercised over them, and the work to be entrusted to them. A guiding principle to be observed in the consideration of the first point is obviously the utilization to the utmost of existing and well-established institutions,—the construction of our edifice as far as possible with existing materials. The District Committees cannot be said to be well-established. As a rule they have been failures, and as an agency for the management of local affairs by the people themselves, they can never be very efficient. Our districts are so large that, if the District Committee meets at short intervals, it can only be occasionally attended by members who do not reside at or in the immediate vicinity of the head-quarters station, while, if it meets at long intervals, it loses its character of a working body. In either case the work will either be neglected altogether, or be carried on by members who can as a rule have little knowledge of the wants of the outlying tracts. It has therefore been determined that the area under a Local Board, to be called the Local Government Circle, though if members are available, it may be smaller, should not as a rule be larger than the area of a sub-division. These Local Boards will be practically new bodies, but we cannot go lower for our Chief Board if we wish to utilize the intelligence of the educated inhabitants and to give them duties and responsibilities sufficiently important and sufficiently large to engage their attention and enlist their sympathies. Nor can we go higher, by creating District

Boards, without impairing the importance and utility of these Local Boards, through which we hope that the measure will take root in the country, and in the working and direction of which we hope to utilize and develope the enthusiasm and energies of its best intelligence. We can, however, provide them with useful auxiliaries among the people. We can frame for them a sound basis and an executive agency out of the material of village Committees to which the people have already become to some extent accustomed. In the conjunction of these two bodies, the Local Board administering the Local Government Circle, and the Union Committee administering a Union of villages, we hope to combine and make mutually supporting two great elements of success which we undoubtedly have at hand. The first of these is the political enthusiasm of the educated classes. This has been exaggerated by some: it has certainly been unduly depreciated by others. That such enthusiasm exists, and exists in a genuine and active form, must be plain to any one who has watched the proceedings of the past few months, and who has conversed with educated men from the interior. Among the great mass of the rural population, on the other hand, there is no enthusiasm whatever on the subject of Local Self-government as a general question. The Bengali villager takes a keen interest in the affairs of his own village and its immediate neighbourhood, but he knows and cares nothing about politics or representation, and he has no idea of giving his time to the management of the affairs of other people. But, if he has no political enthusiasm, he can be made to serve the enthusiasm of others, while looking only to that which interests himself. He will readily contribute to the formation of an efficient village executive, as officers who have sought to utilize his services on village works have always found. He it is who really possesses local knowledge and local interest within his own narrow sphere. The educated man whom we hope to see upon the Local Board will have need of such an executive agency. He is willing to give up his time to the direction of local affairs; but it is impossible that he could be acquainted with the wants of more than a small section of the area to be administered by the Board on which he sits. He will be the administrative head, but he will require executive hands. In representative Committees of the villagers, we shall have the material for a great part of that executive power in which the Local Boards will at first be to some extent deficient. What we require to establish is a touch between the educated member of the Local Board with political enthusiasm, but without much local knowledge or interest, and the member of the village Union Committee with local knowledge and interest, but without political enthusiasm. That touch can, I think, be established. At first the members of the Union Committee will not look beyond their Unions. But they will form a *corps d'elite*, and as such will provide the constituency to elect the members of the Local Board to represent the tract to which their Unions belong. As the intelligent Union Committee man gradually sees the advantages of a seat on the Local Board, as his field of interest becomes gradually extended and he begins to realize a desire for larger duties and responsibilities with larger power, he will seek election to the Local Board, while the Local Board will gradually

gain by such accessions the practical knowledge which it may lack first

It seems to me of the first importance that the Union Committee should be made thoroughly representative, and be fostered and utilized to the fullest extent. If the members are chosen by the people themselves, and sufficiently large interests and responsibilities are entrusted to them, the Committee will bring home to every villager the fact that he has a voice in the management of affairs which concern him, and if the best men can be induced to serve upon it an ever stronger and stronger link will be established between the people and the distant Local Board, which at first they will barely comprehend. It is not intended that the Union Committees should be formed by a coalition of chowkidari punchayets. Whether they can hereafter be entrusted with any control over the village police is a question which need not now be discussed. The subject is under enquiry by a Special Commission and Government must reserve its decision in the matter. I may only say that the expression "Union," which is to be eliminated from the Municipal Act, should also be eliminated from the Chowkidari Act, where it is used to represent a smaller area than that which is proposed as the lowest Self-government unit. It is proposed to take as that unit the area that would ordinarily be served by a pound. This may be a large village or a group of villages. Its radius would ordinarily be about two miles. The strength of each Committee would be 5, 7 or 9 as might be determined in the order constituting each. The duties of Union Committees will be referred to presently when I am dealing with the question of the work to be entrusted to the Local Bodies, but I may say here that the policy will be to give them an improvable revenue to devote to Union purposes, and that they will be entrusted with the management of the local pound and the expenditure of its revenue. These Union Committees should be elected by the villagers themselves, not by formal methods, but by such simple processes as may be familiar to them. It will be advisable to provide for the necessary elasticity by leaving the details of the method of election in different places to be settled by rules under the Act In exceptional cases, where factions run high and there would be a danger of one section of the community being oppressed by another, it would be necessary to nominate some or all of the members. But these instances would be of rare occurrence, and in the great majority of the cases the Union Committee should be elected by the people of the Union. It is proposed to fix the franchise so as to exclude only the most ignorant classes who have no stake in the Union and no interest in its improvement. I am convinced that in this organization we shall have the foundation of a great and successful system of Local Self-government If the Union Committee is entrusted with real powers and responsibilities it will become an object of interest to the villagers, its proceedings will be watched and criticised, and the power of control which each voter possesses will gradually be understood. We shall in fact give to the people Local Self-government in the form in which they will be able to appreciate it, in the management of their own pound, their own schools and their own roads. At the same time we shall be making them contribute unconsciously, and in the

pursuit of a different object, to a broader system of Local Self-government which individually they would be unable to understand.

This brings me to the question of the constitution of the Local Boards. It is proposed that, as a rule, each thanna should be represented by two elected members. The chief portion of the elective body would be the Committees of the Unions in the thanna. Apart from the question of an educational franchise, to which I will presently allude, the right of voting for the election of members of the Local Boards should be restricted to the Union Committees,—to the men, that is, who have been chosen by the villagers themselves to manage their affairs. If we attempt *scrutin de liste*, if we ask the cultivators at large to vote for the members for a thanna instead of concentrating their attention on their own villages, we shall be courting failure. I venture to think that such opposition as is ordinarily offered to the extension of the elective system in Bengal proceeds upon a totally incorrect assumption. We are told that the people will abuse their powers and will return a set of irresponsible demagogues who will neglect the work and discredit the system and will ultimately have to be set aside by Government. In my humble opinion,—an opinion which rests upon the evidence of facts and upon the views of some of the most experienced officers of the province,—the danger is, not that election would be abused, but that it would not be used. We have to guard, not against a revolution, but against a collapse; not against an unhealthy exuberance in the plant we seek to rear, but against its death from inanition. A perfect system of election has a double value. It acts at once as a stimulus and as a check on the elected; it enlarges the interest and promotes the self-reliance of the elector. Under such a system the elected member has a sense both of independence and of responsibility to which the nominated member is a stranger. He knows that he has little to fear if he does his duty, and he will seek to discharge his trust efficiently under penalty of having it withdrawn from him. But unless the electors take an interest in the elections, the members might as well be selected by nomination, by lot, by the day of the week on which they were born, or by any other haphazard process. If the electors do not feel that by their votes they indirectly affirm their interest in the management of affairs through the representatives of their choice, they might as well abstain from voting, and they will have no more share in Self-government, as represented by the proceedings of the elected body, than they have in the motion of the planets. If they have such an interest, election is the only means by which they can give it effect. Now the villagers have a keen interest in all work that affects their village and its surroundings, and they may therefore be trusted to use their knowledge and interest in electing the Committee to do that work. But we must always keep in mind the important condition to which I have already adverted—that the people at large are devoid of enthusiasm in the matter of Local Self-government as a general question—and recognize that it would be idle to expect them to vote for the election of a Board to control a whole sub-division. If we are to have election we must have election, as regards the larger areas, by a select body only. It has been proposed that this body should be formed by

the Magistrate of the District by his own nomination. I should like to ask any district officer in Bengal if he could nominate 150 or 200 men in each of his sub-divisions, who in his opinion would be the best representatives of the people. His reply would be that the great proportion of his nominees would be the nominees of the police, and that he could not guarantee that they would be even approximately the best men. The system which the Bill proposes, however, will give us a representative body chosen for their own ends by the people themselves. In the Union Committee we shall have a compact body of the most intelligent men, who will gradually acquire and transmit a feeling of interest in the constitution of the larger body. I do not overlook the probability that by reserving the ordinary franchise to the Union Committees, we may exclude men in the larger villages who, though intelligent, have no seat on the Union Committee. They may be much wealthier and much more intelligent than others who, because they belong to the Committee of a smaller Union, are entitled to vote. It would be impossible, however, so to frame the rules as to admit them without extending the franchise to very many others who would make no attempt to employ it. Moreover it should be our policy to strengthen the Union Committees, and through them the Local Board, by making it an object with the most intelligent villagers to join them. If the Union is very populous and advanced, the villagers can apply to have it erected into a Municipality. Besides the Union Committees, it is proposed to give the right of voting for the election of members for the thanna to all persons residing within the Local Government Circle or any Municipality contiguous to it, who are holders of University degrees or diplomas, who are pleaders or mookhtears, or who hold salaries of not less than Rs. 50 a month, and who are themselves entitled to vote for the election of the Committee of any Union in the thanna, or belong to a joint undivided family of which one of the members is so entitled. It appears to me that the recognition of an educational qualification with some guarantee of local interest is very important. It must be realized that, though the Union Committees will do good work and will interest the people in Local Self-government so far as their own villages are concerned, the success of the measure in its broader aspects will rest with the educated classes. It will be an important advantage to bring together the two elements—the educated man and the working Union Committee man—in the exercise of the franchise. Those who oppose an educational qualification as such appear to me to look only at one side of the question. It is no doubt very important that we should guard against handing over the administration of local affairs to a number of needy adventurers who can talk, but who will not work; and if there were any danger of this, a heavy responsibility would rest with those who advocated such a scheme. But there is too much of a tendency to object to education on general grounds as if its very possession were a danger, and it could not be combined with local interest,—to look upon it in fact as a positive disqualification, when in reality we can look for no real success without it. Local interest should certainly be an indispensable qualification. A pleader, we wil say, from Dacca residing in the Municipality of Burdwan could have no claim

to vote for members, or himself be a member, of a Local Board in the district. He has an interest in the Municipality as a rate-payer, and is entitled to a voice in its management, but he has no concern outside it. But I would ask on what ground it could be said that a pleader at the head-quarters of a sub-division or district, whose father or brother held land in a thanna in the Local Government Circle, should be disqualified for voting for the election of the members for the thanna, or for being himself a member? I would even ask what more fitting representative the thanna could have? With the safeguard of a certain amount of local interest, the concurrence of the educated classes will be essential to the success of the measure as a whole. We shall use their political enthusiasm to leaven the mass of comparative indifference and ignorance with which we shall have to deal

Now as regards the qualifications of candidates. Every person qualified to vote for the election of members should himself be qualified for candidature. And in order not to exclude small zemindars and men of substance, who, though they might not wish to serve on Union Committees, would be quite willing to stand for election to the Local Board, it is proposed to add a separate qualification of the payment in the district of, say, Rs. 100 Road and Public Works Cess or of Rs. 50 license-tax or proof of income from any source amounting to Rs. 2,000 per annum. I am now merely giving a sketch of the measure, and it will of course be understood that all details will be fully considered in Select Committee. No one should be qualified for election who does not reside within the limits of the Local Government Circle or within a Municipality contiguous to it.

It is proposed that Government should have power to nominate one-third of the members of the Local Board. It is unnecessary for me to point out to the Council the necessity for this provision. It corresponds with the English practice of making Justices of the Peace, who are of course nominated *ex-officio* guardians of Unions. At any rate it will be essential to make such a provision at the outset of our measure. If this power is not reserved, important classes may be left unrepresented, and the Boards may be deprived of the services of men of wealth and intelligence, Native and European, who are unwilling to undergo the ordeal of an election, and of men of businesslike habits and executive experience, whose absence may be fatal to their successful working. At the same time it might be provided that there should be no *ex-officio* members, and that not more than one-fourth of the total number of members should be nominated by Government from among its own servants. Thus if a Local Government Circle consisted of four thannas, there would ordinarily be twelve members of whom Government would nominate four, of whom again not more than three would be Government servants. This number would of course be exclusive of any Government servants chosen by the electors.

The remarks which I have made on the subject of election apply only to thannas in which it is possible to introduce the system of Unions to a considerable extent. If one-half of the area of a thanna is under Union Committees, there will be a sufficiently large elective body. Where this is

not the case the members for the thanna must all be nominated. If we cannot get men fit to manage Unions, we cannot get men fit to elect members of Local Boards.

It is proposed that every Local Board should be allowed to elect its own Chairman and Vice-Chairman, subject to the approval of Government. Every person so elected would, upon the confirmation of his election, become a member of the Board. It is hoped that the Boards will in as many cases as possible elect one of their own body, and it will be the policy of Government to encourage them to the utmost to do so; but it is considered unreasonable to debar them from electing an official who may not have been nominated to the Board by Government, if they feel, as many may feel at the outset, that the affairs of the Board cannot be satisfactorily conducted without the aid of his experience and knowledge. It is hoped that such instances will gradually become less and less numerous. Efforts will be made to guard, so far as existing circumstances will permit, against the dearth of competent non-officials. If there are no competent men in the circle it can be enlarged. The scheme will be perfectly elastic in this respect If a sub-division is very backward it can be linked on to one more advanced, and the two will then constitute one Local Government Circle, with its head-quarters at such place as Government may direct. It will be the desire of Government that non-official Chairmen should be elected wherever this is possible, and I think most District and Sub-Divisional Officers recognise that, if they have an intelligent Board to deal with, they will have a much stronger and more dignified position if they have no place at all upon it Some persons argue that the Magistrate will lose his power and prestige if he is not the Chairman of every Board in his jurisdiction. I am not speaking now of the control that must be maintained for the protection of the public interests and the maintenance of efficiency. I am speaking of the individual power and prestige of the Magistrate himself. In one sense, no doubt, it is quite true that he would have more power and prestige if we made him Chairman of every Board. It is true in the sense that the King of Dahomey has more power and prestige in Dahomey than the Prime Minister of England has in the British Dominions. But it is not true in the sense that the man who by his counsel and advice and the force of his character and the influence that is begotten of confidence and respect, guides thinking men forward in the path of progress and exacts from them, not unreasoning assent, but intelligent and willing concurrence and co-operation, has more real power and prestige than the individual who has only to express his will that it may be blindly obeyed. Notwithstanding the terrible revelations with which we have recently been favoured regarding the sanity of the members of the Indian Civil Service, I venture to think that we may flatter ourselves that they still retain a sufficient glimmering of reason to enable them to choose between the Prime Minister of England and the King of Dahomey.

I now come to the second point,—the control to be exercised over the local bodies. This control has two objects, a direct one and an indirect one. The first is the protection of the public interests by the efficient performance of the duties entrusted to the bodies. The second is the maintenance of a

standard of administrative education. The first object requires no further notice. It is sufficiently obvious. The second simply means that Local Self-government can only be successful if the people both do the work and do it well. We must ensure that there be no collapse and no serious loss of efficiency in the Administration. If this is allowed to occur the public will suffer, the officers of Government will not be relieved of the work that they have now to do, and the local bodies will not learn to take the position which we desire to assign to them. Efficient control must therefore be maintained. I have already in my remarks on the internal direction of the Boards somewhat anticipated this part of the subject, and argued that control should not be maintained from within. I venture to differ from an opinion which I have this morning seen expressed in a London newspaper, that if Government ceases to govern entirely through its own agents, and governs partly through parish vestries and Local Boards, it will take an irrevocable step towards an anarchy which will utterly destroy the fabric of the British Empire in India. I think we need not be seriously disturbed by the cloud-giant conjured up by this temperate and well-informed writer. I venture to hope that British rule may still be maintained, even though the roads, schools and dispensaries of our sub-divisions are managed by non-official agency, and that the members of our Local Boards will not insist on turning us out of the country. Internal control of the Local Boards, therefore, not being indispensable for the preservation of the Empire, the question is what form of external control will be most suitable. That form will be best which will secure the three results to which we look forward—the political education of the people, the relief of the regular Administration by the enlistment of gratuitous agency, and the maintenance of efficiency. In other provinces it is proposed to employ partly local and partly divisional control. It has been held that this system would not be suitable to Bengal. There can be no question that it would fully secure the third object—the maintenance of efficiency,—but it is considered that it would militate against the first and second objects, the political education of the people and the relief of the regular Administration. The influence of the Magistrate and the Commissioner would undoubtedly be exercised for the promotion of efficiency, but it is felt that it would involve too much of that primary interference in detail which is so likely to discourage and repel non-official agency, while the duty of supervision and control to be performed by the Magistrate, the Commissioner, and the Government would be so heavy that there would be a large increase rather than a decrease in the work they have now to do. This duty, it is to be observed, will be more and more onerous as the scheme receives its full development. It is very probable that in other provinces, the third and essential object could not otherwise be secured, and that large powers of local interference must be reserved: in such places, however, progress will not be rapid, and the many great questions of superior control which must accompany the operation of the Bengal scheme will not arise. In Bengal it is felt that efficiency of administration can be secured under a more liberal scheme; it is felt that we can afford to look less to control as a safeguard against failure than to reasonable liberty, tempered by

control, as an instrument of education. It will of course be necessary that the Magistrate should have the power (though he will probably never have to use it) of suspending the action of the Board when, for reasons to be recorded, he believes it to be imminently dangerous to the public health or the public peace, and, in order that he may be kept fully acquainted with their action, that he should be furnished with copies of their proceedings and permitted access to their works. But all power of interference beyond this and all control over the initiative action of the Boards, it is proposed to vest in a Central Board, which will deal, not only with all the Local Boards, but also with all the Municipalities, in the Province. That Board will consist of a Chairman and two members, the former a specially selected officer of Government, the latter non-official native gentlemen of education and influence. The functions of the Central Board will be similar to those exercised by the Local Government Board of England. It will have full power to compel Local Boards and Municipalities to perform duties they may be found to have neglected, and to suspend work which may be found to be wasteful or mischievous. It will deal with their estimates, sanction their bye-laws and rules of procedure, supervise elections, and in fact perform all the functions of Government which may be extended to it. Those functions will chiefly relate to guidance and the control and supervision of details. Government must of course retain the direction of general policy, and there will be many questions of which it alone can be the arbiter. It is not overlooked that this will really be a new department for the control of Local Bodies generally, and that in some respects there will only be a shifting of labour and expense from one set of shoulders to another. But it must be recognized that if the extension of Local Self-government is ultimately to relieve our officers of much work that they now have to do, or would hereafter have to do, it can only be by the creation of a special department to deal with the questions involved. I think it may fairly be claimed that the system will secure all three of the objects already alluded to. It will give reasonable liberty to the Local Bodies, it will relieve the regular Administration of much present and more prospective work, and it will secure that the management of local affairs is efficiently conducted. The Board will be in close and constant correspondence with the local officers, who will be able to represent to it their views and give it the benefit of their advice and their local experience. With the Local Bodies it will correspond direct. It will have inspectors for special purposes, and its members will themselves make tours of inspection. It will be able to secure such uniformity as may be desirable, to apply experience gained in one part of the country for the benefit of another, and to gather up and utilize various agencies which are now imperfectly employed. In regard to Sanitation and the allied questions, it is expected that the Central Board will be able to secure improvements which have hitherto been found unattainable.

As I have detained the Council so long with an exposition of what is proposed in regard to the constitution and control of Local Bodies, I shall merely indicate generally the departments to be entrusted to them, leaving most of the details under this head to be explained hereafter. There is not much to add to the

list given in the letter from the Government of Bengal to the Government of India, dated 8th April last, which has already been published. The policy will be to give Local Bodies the construction and maintenance of roads (District and Provincial), and of such buildings as they may be willing to deal with through their subordinate engineering staff under the general control of the Government District Engineer, the management of all hospitals and dispensaries and the administration generally of medical relief, the management of zillah schools through Joint-Committees formed partly of representatives of the Municipalities in which the schools may be situated, the control of middle schools, and of primary schools,—of all educational institutions, in fact, except colleges, attached collegiate schools, normal schools, with attached model schools, medical schools, surveying schools, madrassahs and schools for Europeans and Eurasians,—the management of all camping grounds and staging bungalows, the control of Ferries, of Pounds, of Sanitation, of Vital Statistics, of Vaccination, where the licensed agency is employed, of Drainage schemes in certain cases under Act VI of 1880, of the administration of relief in times of scarcity (special grants being made in exceptional cases), and various miscellaneous duties which I need not now specify. It is not proposed to make the collection of the License Tax any part of the duty of Local Bodies. It would be no gain to them to be made responsible for the collection if they had no share in the outturn, and the fact that a large portion of the Tax is levied in Municipalities renders it impossible to make any such arrangement.

The Union Committee will, as I have already said, be entrusted with the management and the expenditure of the income of the Union Pound. They will, under the control of the Local Board, manage the primary schools of the Union, and they will, as a rule, form the Managing Committee of any aided or middle vernacular school in the Union. They will appoint and pay the gurus of the patshalas, and they will be the medium for the transmission to them of rewards granted by the Local Boards. They will have the management of all village roads, and, separately or as members of Joint-Committees appointed by the Local Board, of such lengths of district or provincial roads as may be entrusted to them by the Local Board. They will be responsible for the accurate registration of vital statistics and for the execution of small measures of sanitation, drainage and water-supply affecting the Union. In regard to these works they will act under the general control of the Local Board and will be bound to carry out its orders, subject to the right of appealing to the Central Board. Powers will be given to them to compel private persons to take such action with their tanks, land and other property as the Union Committee, of its own motion or by order of the Local Board, may direct.

The Local Board will deal, subject to the direction of the Central Board, with the control, directly or through the Union Committees, of the various branches of the Administration which I have just enumerated. Where the regular staff of Government vaccinators has given place to licensed vaccinators, the Local Board will be entrusted with the management of this branch, in regard to which their general and social influence will be specially useful.

The Inspector of Vaccination will also be their Sanitary Inspector. It is proposed that Government should maintain a District Engineer at the head-quarters of each district who would be the Inspector of all Local Works within its limits. He would be the Consulting Engineer of all Local Boards who could not afford to employ Engineers, or "Surveyors," of their own, with the necessary qualifications, that is, he would prepare all projects for roads and bridges which might be beyond the powers of the Surveyor. He would generally supervise the works of all Boards and give them the benefit of his advice. He would also prepare all designs for public buildings and the like and estimates for their repairs, and, where the system was complete, would make them over, when sanctioned, to the Local Board, which would execute them through its Surveyor and his establishment, and thus, as it were, act as contractor to Government, securing the ordinary allowance on account of establishment for the maintenance of its staff.

The funds of the Local Board will consist, first, of the proceeds of the Road Cess levied in the circle unless the Central Board should direct that, in consequence of the general importance of any work in any other circle, a portion should be contributed to its funds. The Union Committees will be entitled to the income from their pounds: where there is no Union the income will of course go direct to the Local Board. Even in Unions, however, the Local Board will be able to participate in the increase of income which will undoubtedly take place by reducing their grants to the Union for roads and schools. It will be the desire of Government to make over the existing pound revenue, with no corresponding deduction, or with as little deduction as possible, from the general grants to be made to the Boards, as the position of the finances may allow. In no case will Government seek to participate in the development of this revenue, and that it will very largely develope under the management of the villagers themselves no officer of mofussil experience will deny. Figures which have been kindly supplied to me by my friend, the Honorable Mr. Thomas of the Madras Civil Service, show that in Madras the pound system has been largely developed with the most satisfactory fiscal results. The large revenue to be gained by careful management of this branch will be at the disposal of the Local Bodies for local improvements Ferries will be transferred to the Local Boards, and they will enjoy all the increase of revenue that may be derived from them. The general services to be made over to the Local Boards will be covered by fixed grants representing existing, or recent average, expenditure, and these will not be revised except in the event of any change in the method of administration. It may even be hoped that Government will be able to pursue the policy which Sir Ashley Eden was able to adopt, of making annual additions to the grant for primary education. So long as the service is performed the fixed grant will remain, with the proviso that funds are not diverted from one object, such as primary education, to another, without express sanction or in accordance with such rules as may be laid down.

Such is an outline of the scheme which it is my privilege to lay before this Council. That scheme is animated by no niggardly spirit of restriction;

it is influenced by no repugnance to the admission of the non-official classes to a share in the administration. It is based upon the principle that the first duty of a Government, and the surest safeguard of its prosperity, is the progress and enlightenment of its people. Its object is not to sever, but to bring into closer and more cordial relations, the official and non-official classes, and to cause them to work together, with mutual confidence and respect, for the welfare of this great Empire. But the Legislature can only provide the instrument and the machinery: they must be worked by other hands. Whether this measure is to succeed and to form the stable basis of larger liberties, or is to be discredited and to lapse into the old system under another name, will depend upon the moderation, the energy and the public spirit of those for whose advancement it is devised. A weighty responsibility will now rest upon the educated men of Bengal. They are the natural leaders of their countrymen, and if they will recognize that the foundation of all progress is work, and by the exercise of industry and prudence secure to themselves, and impart to those below them, a sound administrative training, then this measure, limited though it be, may lead to great results. If they overlook these principles, and seek to attain the end without practising the means, if they neglect the trust that devolves upon them, and aim directly at political objects instead of laying the foundation of progress by the efficient administration of local affairs, then will the liberal policy of Government be defeated. I for one am sanguine that they will not be wanting in their duty to themselves and their countrymen, but that, by the use they make of this measure, they will show that they are worthy of the opportunity afforded them, and that they are capable of teaching the peoples of India to work soberly and patiently towards the gradual development of the great destiny that awaits them."

His Honor the President said that he had intended at one time to have taken this opportunity, though it was only the preliminary stage of asking for leave to introduce the Bill, to say a few words of his own on this large question of the extension of Local Self-government in these provinces, because it had been for the last six months one which had been very closely brought under his consideration in official reports and in numerous communications which he had received from non-official gentlemen on the question, and the very varied criticisms which it had received from the public press. But he thought, as the speech of the Hon. Member in charge of the Bill had placed before the Council in a very full and lucid way the general outlines of the scheme which the Government contemplated in respect of this measure, that he would reserve any remarks which he might wish to offer till the next occasion when the Bill framed on the basis of the Hon. Member's speech had been laid before them. It had been resolved that all the official papers shewing the communications which had passed between Commissioners, Collectors, and the Government should be published and made available for the use of the Council and of all others who might desire to refer to them. It would there be seen that a great variety of views and opinions had been recorded upon the subject, and much information and instruction on the details of the question would be in the hands of Hon. Members.

The Council would adjourn after this meeting for a fortnight, and he hoped that in the interval the draft of the Bill would be got ready for submission to the Council. His Honor's present object in making these few remarks was to express the hope that, upon a consideration of the statement contained in the speech of the Hon. Mover, Hon. Members would be prepared, on the presentation of the Bill, to state their views as to the general principles which the Government advocated in the introduction of a measure of immense importance to the country.

The motion was put and agreed to.

AMENDMENT OF THE CALCUTTA PORT IMPROVEMENT ACT.

The Hon. Mr. Reynolds introduced the Bill to amend Bengal Act V of 1870, and moved that it be read in Council. He said that he had explained the object and purport of this Bill on the occasion when he applied for leave to introduce it, and now that the Bill had been prepared and circulated to Hon. Members, he found little or nothing to add to what he had then said. The second clause of section 39 of Act V of 1870 had been already amended by section 21 of Act IV of 1880. The present Bill, for the sake of clearness and convenience, proposed the repeal of that section, and reproduced the words with the amendments which it was intended to make in the clause. In reality the words proposed to be added to the Act were merely twelve in number, which were as follows—"and accommodation for the sampling and selling of such goods and merchandise." The rest of the words which were contained in the second section of the Bill were already in the existing law. This measure was a very short and simple one, and if the Council accepted the principle of it, he did not think he would detain them with any further remarks.

The motion was put and agreed to.

He also moved that the Bill be referred to a Select Committee consisting of the Hon. Mr. Allen, the Hon. Mr. Caithness, and the Mover, with instructions to report in a fortnight.

The motion was put and agreed to.

REGULATION OF THE CONTROL OF COOLIES IN HILL MUNICIPALITIES.

The Hon. Mr. Macaulay introduced the Bill for the general control of coolies in Hill Municipalities, and moved that the Bill be read in Council. He said that he did not think it necessary to detain the Council at any great length in the exposition of this measure. It would be better perhaps that that should be done after the Bill had passed through Select Committee. He would only point out that the essential principle of the Bill was that a distinction should be made between ordinary servants and persons who lent themselves out on hire for short periods. For the latter the provisions of the Bill would be very much the same as those for the regulation of hackney carriages and palankeens; that was to say, if they were guilty of misconduct or wrongfully prevented other coolies from accepting employment, or if they deserted from

their hiring before being discharged, or demanded more than the proper rate for their hire, or were drunk during employment, or made use of insulting or abusive language during their engagement, and so forth, they would be liable to various penalties; and they would be required to wear a badge and take out special licenses. With regard to servants engaged for periods of more than twenty-four hours, as regular servants, it was very undesirable to interfere more than was necessary between master and servant. The only important provision regarding these servants was that they would have to take out licenses from the Municipality, and that in case of misconduct their licenses would be withdrawn. They would be liable to no other penalty under the law.

The motion was put and agreed to.

The Hon. Mr. Macaulay also moved that the Bill be referred to a Select Committee consisting of the Hon. Mr. Reynolds, the Hon Mr. Allen, Colonel the Hon. S. T. Trevor, the Hon. Bhudeb Mookerjee, and the Mover, with instructions to report thereon in three weeks.

The Hon. Mahomed Yusuf said that, before this Bill was referred to the Select Committee, he had one or two observations to make with reference to some portions of the Bill, the principle of which had his full support and co-operation. There were four points which must principally be kept in view in the consideration of the Bill in its present stage. The first was with reference to the class of persons on whom the Bill would operate and the places at which it would operate; the second consisted of the rules and bye-laws which were to govern those persons; the third related to the rates of remuneration which those persons were to receive; and the fourth was regarding the punishments to be provided for breach of the rules. On these four points he had to make some observations. With reference to the first point, viz. the class of persons on whom the Bill would operate, he had doubts whether the Bill contained the necessary provisions; the class had not at all been clearly defined in the Bill. At present that class of persons was unknown, and it was to be left to the Executive Government to define who they were. The Select Committee would of course consider whether it was necessary that this matter should stand as it was, or whether it required any amendment.

With reference to the second point, although no doubt there was the presumption of law that everybody was supposed to know the law, still that presumption was so weak amongst the persons on whom the Bill would operate, that he submitted that the greatest possible publicity should be given to the Bill, and no pains should be spared to make its provisions known to those whom it would affect. And in making this observation he was aware of the provisions of section 5, which provided for a public proclamation to make the provisions of the Bill intelligible to the coolies concerned. But it would be a question whether or not in addition to this the coolies should not have provided for them rules and bye-laws written in the vernacular, setting out what their duties were, so that they might inform themselves of their duties by having the same read to them by any of their brethren or by anybody else, and have no excuse left to them.

With reference to the third point, the rates to be paid, he ventured to think that the provisions of the Bill were far from satisfactory: the rates had been left to be settled by the Municipal Commissioners, and the license was to be for one year. He thought, however, in calculating the rates, that some certainty must be introduced, and they should be regulated according to the rise and fall in the prices in the market, and for this purpose it would be a point for consideration whether the rates should not be revised every month, or in some other mode as might be thought proper.

With reference to the fourth point, the amount of punishment, he made his observation with some degree of diffidence. He did not understand that he represented any class of persons in that Council, but he was at liberty to express his views, and those views were these:—The punishment which was prescribed in this Bill was by way of fine, and these fines, which were by no means slight, considering the position of the offenders, were often met with in connection with the provisions of the Bill. Of course he did not here contend for the traditionary mode of punishment, which was thirty abuses and twenty shoes; but it would have to be borne in mind whether or not in fixing the amount of fine the result would be to fix an amount which would not have the effect of visiting on the wives and children of the offenders the consequences of the breach of the law and to make the coolies incur debts which might not make them hesitate at adopting any means to discharge the same. These points of course would be considered in Select Committee when it would be seen what form the Bill would take. But he had thought it his duty to make the observations at the present stage in order that they might be considered by the Select Committee for what they were worth.

The Hon. Mr. Dampier said that, before this Bill was referred to a Select Committee, he wished to draw attention to the definitions. They gave very broad powers to the Executive Government. A Hill Municipality might mean practically any municipality in Bengal which the Lieutenant-Governor chose to say was a Hill Municipality. Then who were the coolies to whom the provisions of the Bill might be extended?—"any person included within "the classes of persons specified in an order published by the Local Govern-"ment under section 4." That was to say, putting an extreme case, that it was left to the Executive Government to declare that any person working for hire within any municipality in Bengal might be brought under the Act.

The Hon. the Advocate-General said that he agreed with his hon. friend to the right (Mr. Dampier) that there should be a definition in the Bill which should not be left in such doubt and uncertainty as the term "holding" was left in another Act, in which a holding was defined as anything which the Magistrate chose to declare a holding. Another point was that the rates of hire should be fixed by the Act. He thought that the persons upon whom the Act was to operate should have a right to be heard—a right to represent to the Council or to the Lieutenant-Governor by memorial their views on the subject. But if the power to fix the rates was left to executive authority, those whom the rates would affect would be subject to their operation without having had the right to urge their objections (if any) to their sufficiency or propriety.

His Honor the President said that the observations which had been made seemed to him to have very great force, because personally he should be very sorry to accept the responsibility either of defining what a hill municipality was or of taking other executive action in a matter which should properly and rightly be defined by law. Therefore, he hoped that the remarks which had been made would receive the careful attention of the Select Committee before the Bill was brought up for final consideration.

The motion was agreed to and the Bill referred to a Select Committee.

JUTE-WAREHOUSES AND FIRE-BRIGADES.

The Hon. Mr. Reynolds said:—"I beg to move for leave to introduce a Bill to amend the law relating to jute-warehouses and fire-brigades. The first special law on this subject was passed just eleven years ago by Bengal Act II of 1872. Before that time the sections relating to the inspection and licensing of jute-warehouses were embodied in the Calcutta Municipal Act, and there were no special provisions for the establishment and maintenance of a fire-brigade. The Act of 1872 provided for the grant of licenses to existing and new jute-warehouses, and required the Municipal Commissioners to organise and maintain an efficient fire-brigade for the Town and Suburbs of Calcutta. The Act was subsequently amended by Act II of 1875, Act I of 1877, and finally by Act V of 1879, which is the existing law on the subject.

By the Act of 1879 the license fees for jute-warehouses are to be fixed by the Local Government after consulting the Commissioners. The duty of maintaining the fire-brigade is delegated to the Commissioner of Police for the Town of Calcutta. The Calcutta Commissioners and the Municipal Commissioners of the Suburbs and Howrah are to apply the moneys derived from fees and penalties under the Act—first, to payment of the expenses of the fire-brigade; secondly, to the payment of the expenses connected with the inspection and superintendence of jute-warehouses, and the grant of licenses. Any balance which may remain is to be applied in reduction of the fees levied on licenses. The cost of the fire-brigade is to be contributed in the proportion of seven-tenths by Calcutta, and three-tenths by the Suburbs; but the three-tenths payable in any year by the Suburbs must not exceed the sum of Rs. 10,000.

The points in which the present law appears to the Government to be defective are the following:—Firstly, Part III of the Act, which relates to the maintenance of the fire-brigade, does not apply to Howrah. The Act contemplates that Howrah will maintain its own fire-brigade from the proceeds of its own license fees. But it would be a more convenient, more efficient, and more economical arrangement to have one fire-brigade for Calcutta, the Suburbs, and Howrah, under the management and superintendence of the Calcutta Commissioner of Police.

Secondly, the distribution of the expense of the fire-brigade between Calcutta and the Suburbs, in the proportion of seven-tenths to the former and three-tenths to the latter, with a limit of Rs. 10,000 as the extreme amount which the Suburbs can be called upon to pay, though it may have been an equitable arrangement in 1872, has how ceased to be either a fair or a conve-

ment plan. It tends to throw too large a share of the burden on Calcutta, and it is an obstacle to the full utilization of the funds raised under the Act. The number of licensed warehouses in Calcutta is stationary, and, indeed, rather diminishing than increasing; whereas in the Suburbs the number shews a steady increase. This is only what might have been expected. Space in Calcutta is limited, land is more costly than in the Suburbs, and the incidence of municipal taxation is heavier. There are now 92 licensed warehouses in the Suburbs, against 73 in Calcutta. The consequence is that, while the fees levied in the Town do not cover the seven-tenths which Calcutta has to pay, the fees in the Suburbs provide for the three-tenths, and leave a considerable balance. Under section 24 of the Act, this balance can be applied only in the reduction of the license fees, and accordingly the rate of license fees in the Suburbs has lately been reduced from ten to five per cent. on the annual value of the warehouses. But even after this reduction the report on the working of the Act for last year shewed a balance of more than Rs. 5,000 to the credit of the Suburbs, while in Calcutta there was a deficit of nearly Rs. 3,000. Under the law, as it stands, this surplus in the Suburbs cannot be applied either to meet the deficit in Calcutta, or to the purchase of new engines or plant for the fire-brigade, though such purchase is very urgently called for. It must go towards the reduction of license fees in the Suburbs, though the rate of fee in the Suburbs is already 50 per cent. lower than it is in Calcutta. Then the necessary outlay for the purchase of new plant must be contributed in the proportion of seven-tenths by Calcutta and three-tenths by the Suburbs, though it is really for the requirements of the Suburbs that the outlay is necessary. Some other minor amendments in the Act are called for, but these are mostly of a verbal character, and I need not trouble the Council with them at this stage of the question. The two amendments to which I have referred are those which it is the main object of Government to introduce by the proposed alteration of the law; first, the extension of the Calcutta fire-brigade system to Howrah; and secondly, the reapportionment of the fire-brigade expenditure between Calcutta and the Suburbs.

It is not the object or desire of the Government to do anything to increase the present rate of license fees. On the contrary, it is hoped that one effect of the Bill will be to enable some relief to be given to the holders of licenses in Calcutta, who are certainly rather heavily taxed at present. Section 5 of the Act, which deals with the question of fees, will substantially be retained, though the wording of it will perhaps be found capable of improvement.

The important changes will be in Parts III and IV of the Act. The scheme which it is proposed to substitute for the present law is briefly as follows:—The Commissioners of Calcutta, of the Suburbs, and of Howrah will retain in their own hands 20 per cent. of the fees and penalties realised under the Act. From this amount they will defray the charges connected with superintendence, inspection, and the grant of licenses; and if they have any surplus they will be at liberty to use it for general municipal purposes. As far as can be gathered from the reports now submitted, it seems that the charges for inspection and

superintendence come to about 16 per cent. of the fees. I propose to allow 20 per cent., but this is a point which can be more fully considered in Select Committee. The remainder (say 80 per cent.) of the receipts will be paid over by the Commissioners to the Commissioner of Police for Calcutta, who will be charged with the duty of maintaining an efficient fire-brigade for Calcutta, the Suburbs, and Howrah. The Bill will also provide that any balance now standing to the credit of the Fire-brigade Fund may be granted in such proportion as the Lieutenant-Governor shall direct either to the Municipal Fund of Calcutta or the Suburbs for general purposes, or to the purchase of new plant and other objects connected with the fire-brigade. I understand that there is a sum of about Rs. 20,000 now at the credit of the Fund, and it is not altogether easy to say how this balance should equitably be appropriated. The Bill will therefore leave the distribution of this surplus to the discretion of the Lieutenant-Governor.

If leave is now given to bring in the Bill, I hope to have it printed and placed in the hands of Hon. Members before the next meeting of the Council."

The motion was put and agreed to.

The Council was adjourned to Saturday, the 3rd February 1883.

Saturday, 3rd February 1883.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *Presiding.*
The HON. G. C. PAUL, C.I.E., *Advocate-General.*
The HON. H. L. DAMPIER, C.I.E.
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel the HON. S. T. TREVOR, R.E.
The HON. T. T. ALLEN.
The HON. AMEER ALI.
The HON. BHUDEB MOOKERJEA, C.I.E.
The HON. J. E. CAITHNESS.
The HON. MAHOMED YUSUF.
The HON. HARBUNS SAHAY.

AMENDMENT OF THE CALCUTTA PORT IMPROVEMENT ACT.

THE HON. MR. REYNOLDS presented the report of the Select Committee on the Bill to amend Bengal Act V of 1870. He said:—"I beg to give notice that at the next meeting of the Council I propose to move that the report be taken into consideration and that the Bill be passed. The Port Commissioners are anxious that the Bill should become law with as little delay as possible, but I do not propose to bring forward any motion to-day, as I wish to avoid anything which might have the appearance of hurrying the measure through the Council, and I should like the fullest consideration

to be given to the Bill before Hon. Members are asked to come to a vote upon it. I say this especially because, in some quarters at least out-of-doors, there seems to be much misapprehension of the real meaning and object of the Bill. I was reading this week an article in a Calcutta paper, in which this was described as a monstrous Bill, intended to give the Port Commissioners a monopoly of warehouse accommodation. Now this view is altogether a mistake, and there is no question of any monopoly at all. The Port Commissioners desire to build a warehouse to facilitate the storage and shipment of tea. This they are quite competent to do under the present la w, and the Bill has nothing to do with this part of the scheme. But they find that it will be for the convenience of the trade and the public that they should be allowed to provide accommodation in the warehouse for the sampling and sale of tea, and the object of the Bill is simply to give them power to provide this accommodation. It will be perfectly free to any one to use or not to use the warehouse as he thinks fit. There will be no monopoly or compulsion of any kind; and the Port Commissioners have not the least intention of becoming samplers or sellers of tea. Those are functions which can be much better performed by the gentlemen who make the tea trade their special business. All that the Port Commissioners propose to do by their Bill is to give these gentlemen facilities for conducting their business in the warehouse where it is expected that the tea will be stored, and from which it will be shipped. The Chamber of Commerce and the great majority of mercantile firms interested in tea think that this will be a great public convenience, and an advantage to the trade. The Port Commissioners are so satisfied of it that they are prepared to spend a sum of about eleven lakhs of rupees on the erection of the warehouse. But the use of the warehouse will be entirely optional, and it is quite a mistake to suppose that the Bill is intended to create any monopoly in favour of the Port Commissioners."

The HON. MR. CAITHNESS said he was not aware whether he would be in order in making any remarks at this stage of the Bill, but he should like to say a word or two then or at the next meeting of the Council.

HIS HONOR THE PRESIDENT intimated that the Hon. Member might proceed with his remarks.

The HON. MR. CAITHNESS continued—With reference to the principle that was concerned in this Bill, he did not wish it to pass without making a few remarks. It appeared that there was a strong feeling in some quarters against the principle of this Bill, which he did not consider altogether desirable to be passed over without notice. He did not consider it judicious in principle that public bodies like the Port Commissioners should be empowered to enter into competition with private firms in what was essentially a commercial and trading transaction, that was, the storage, sampling, and sale of tea or other commodities. On principle, therefore, he thought that there was something to be said against the Bill, but in consideration of the importance of the tea interests and the great benefits which must arise from the facilities proposed to be given, the question was certainly deserving of further consideration. This matter had received great consideration at the hands of the Chamber of Commerce,

who were best able to speak on the subject from their large experience and interest in it. The opposition which was first offered to the scheme had dwindled down, he believed, to two or three firms particularly interested in the storage and sale of tea, and as the Chamber of Commerce had withdrawn their opposition in favour of the scheme, which undoubtedly would afford great facilities to the interests concerned, he thought, on these grounds, the question of principle might be waived and he would therefore be disposed to vote in favour of the Bill.

JUTE-WAREHOUSES AND FIRE-BRIGADES.

THE HON. MR. REYNOLDS introduced the Bill to amend the law relating to Jute warehouses and Fire-brigades, and moved that it be read in Council. He said:—"The Statement of objects and reasons which has been circulated with the Bill explains the difference between the Act of 1872 and the Act of 1879 as regards the application of the funds raised under the Act, and the payment of the fire-brigade expenses. By the Act of 1872 the cost of the fire-brigade is to be met from the fees and penalties levied under the Act, and if there are any charges which cannot be defrayed from this source, they are to be paid by Calcutta and the Suburbs in the proportions of seven-tenths by the former and three-tenths by the latter, and such three-tenths must not exceed ten thousand rupees. But it is quite another thing to provide, as the Act of 1879 provides, that the entire charges of the fire-brigade shall be contributed in the above proportions, and that any surplus shall be applied in the reduction of the license fees. The receipts from fees in Calcutta and the Suburbs are about Rs. 22,000 in the former, and about Rs. 16,000 in the latter. But last year the Suburbs paid only Rs. 7,411 to the cost of the fire-brigade, while the charge against Calcutta was Rs. 17,595. Eighty per cent. of the fees in the Suburbs, which is the contribution contemplated by this Bill, would be Rs. 12,800: and this is a much more equitable sum for the Suburbs to pay than the amount which they contribute at present.

I stated, when moving for leave to introduce the Bill, that its two main objects were the inclusion of Howrah in the fire-brigade system of Calcutta, and a more equitable apportionment of the fire-brigade expenses between Calcutta and the Suburbs. The former of these measures was recommended last year by the Chamber of Commerce, on the occurrence of a serious fire at the Nasmyth Press Company's premises in Howrah. The receipts from fees in Howrah are between five and six thousand rupees a year: and though this sum is not large, it seems probable that it can be more usefully expended by bringing Howrah within the operation of the Calcutta fire-brigade, than by attempting to keep up an independent brigade on the other side of the river. The Municipal Commissioners of Howrah have for some time been aware that their fire-brigade apparatus is quite inadequate for the purpose for which it is maintained, and they are very anxious to obtain a steam fire-engine, but they have hitherto been unable to raise the necessary funds. By the amalgamation of their fire-brigade with Calcutta, they will certainly obtain better protection than they get at present. It will probably be possible to keep a steam fire-

engine permanently stationed on the Howrah side; and even if this cannot at once be arranged for, the Howrah residents will get prompt assistance from Calcutta in case of need, instead of having to make special application for the help of the Calcutta engines.

With regard to the other point, the apportionment of the fire-brigade expenses, I hope I have made it clear to the Council that under this Bill each of the Municipalities will pay over a fixed proportion of its receipts under the Act, and the distribution of the charges into seven-tenths and three-tenths will be done away with, as well as the limitation of ten thousand rupees as the maximum which the Suburbs can be called upon to pay. There is nothing inequitable in this, for it does nothing more than redress the existing inequality. The Suburbs will pay more to the fire-brigade than they pay at present; but it is only reasonable that they should do so, and as the number of warehouses in the Suburbs increases, the receipts under the Act, and consequently the contribution to the fire-brigade, will increase in proportion.

The sections of the Bill which empower the Local Government to make orders for regulating the fire-brigade, and which explain the powers of the fire-brigade in cases of fire, are reproduced from the present Act. Section 22 is nearly the same as section 21, the only alteration being the omission of mention of licenses to manufacture fire-works. This omission is necessary, because the manufacture of fire-works will be dealt with in the Bill relating to explosives, which is now before the Council of the Governor-General. Section 24 gives the Chairman of the Municipality in Howrah the same powers in Howrah as the Commissioner of Police exercises in Calcutta and the Suburbs. These powers must be exercised either by the Chairman as head of the Municipality, or by the Magistrate as head of the Police. In Calcutta these two functions are united in the same person. It may be a question for the Select Committee which of the two authorities should have the power in Howrah. It will perhaps be more convenient that the powers should be exercised by the Chairman, as the Magistrate is more frequently obliged to be absent from the sudder station.

I now come to section 26 of the Bill, which deals with the appropriation of the existing balance. There is at present a balance of about Rs. 22,000 standing to the credit of the Jute Warehouse Fund in the accounts of the Suburban Municipality. As this balance consists of surplus fees levied in the suburbs, it might at first sight seem proper that it should either be expended on the fire-brigade, or be refunded to the suburbs, and that Calcutta can have no claim to share in it. But this would not really be an equitable course to pursue. A surplus has accumulated because the suburbs have paid less than their fair share of the cost of the fire-brigade, while Calcutta has paid more than its fair share, and has had to make up a deficit from its General Municipal Fund. Calcutta, the suburbs and the fire-brigade have all a claim to share in this surplus, but it would be a difficult matter to specify in law the shares which each should receive. The Bill therefore proposes to leave the distribution to the discretion of the Lieutenant-Governor, and I do not think that any better means than this can be devised. It may perhaps be said that the holders of

licenses in the suburbs ought to have some part at least of the surplus refunded to them, but I cannot admit that they have any such claim. The surplus has accrued, not because fees in the suburbs have been too high, but because the law did not allow the amount levied to be expended upon the purposes for which it was raised.

I hardly think there is any other section of the Bill regarding which I need detain the Council with any other remarks. I may perhaps notice that section 32 gives the Lieutenant-Governor a discretion to declare what quantities of jute, cotton, or other substance shall be deemed to be small quantities such as the law need not interfere with. The present Act specifies what is a small quantity of jute, but says nothing about the corresponding quantities of other substances. If instead of leaving the whole question to the discretion of Government, the Select Committee think it better to say that four maunds of jute shall be deemed a small quantity, and that the Lieutenant-Governor may declare what quantities of other substances shall be deemed small quantities, I shall make no objection."

The HON'BLE AMEER ALI said he wanted, with His Honor the President's permission, to make one or two observations with reference to what might be considered rather minor points of the Bill, but to which he attached some degree of importance. He had mentioned his views to the Hon. Member in charge of the Bill, and he had promised that they would be taken into consideration when the Bill was referred to a Select Committee. He did not therefore intend to detain the Council by making any lengthy remarks with reference to those provisions on this occasion, but he hoped the Hon. Member would not think him discourteous if he took this opportunity to explain why he attached so much importance to two of the provisions of the Bill to which he would now refer. The first of these provisions was contained in the last clause of section 20, which provided that nothing in that section should exempt any officer of the police or of the fire-brigade from liability to damages on account of any acts done by him without reasonable cause. To his mind the words "reasonable cause" were likely to hamper a good deal the police and fire-brigade officers engaged in the duty of putting out fires, if they were called upon to consider, before taking action, whether they had or had not any reasonable cause for doing the acts which they considered necessary. Therefore he hoped that in Committee these words would be sufficiently explained, or other words substituted, shewing that, if a man acted in the *bonâ fide* belief that the acts which he did were required in the due execution of his duty, it would not have the effect which MR. AMEER ALI was afraid would result from the wording of the provision as it stood.

The other provision to which he also wished to call the attention of the Council was section 30, which provided that, whenever a person was arrested under the powers conferred by section 29 and taken to a police station, the officer in charge of such station should, as soon as conveniently might be, cause him to be conveyed before some Magistrate having jurisdiction in the matter. He had mentioned this also to the Hon. Mover of the

Bill. The expression "as soon as conveniently may be" was a very wide one, and on the analogy of other Acts, such as the Police and Opium Acts, in which generally speaking arresting officers were obliged to take the man arrested within twenty-four hours before a Magistrate, he would suggest that the time should be limited, and that probably it would be better to restrict it to twenty-four hours.

The motion was put and agreed to.

The Hon. Mr. Reynolds moved that the Bill be referred to a Select Committee consisting of the Hon. Mr. Allen, the Hon. Mr. Caithness, the Hon. Bhudeb Mookerjee, and the Mover, with instructions to report in three weeks. He said he was much obliged to the Hon. Member (Mr. Ameer Ali) for calling attention to these two sections of the Bill. The sections as they stood in the Bill were reproduced from the former Act. They were not altered, because no instance had been brought to notice of any difficulty or inconvenience having arisen from the present wording of the law, and therefore he thought there was no necessity to make any change in the Bill. But he agreed very much with the remarks which had fallen from the Hon. Member, and he would promise that those observations should be fully considered by the Select Committee.

The Hon. Mahomed Yusuf said that, before the Bill was referred to a Select Committee, he wished to make a few observations with reference to one or two sections of the Bill. The sections to which he referred were sections 16, 17, and 27. Sections 16 and 17 dealt with the application of the funds which were to be levied on account of license fees and penalties. In the Statement of objects and reasons appended to the Bill, he found that less than 20 per cent. of the receipts was sufficient to meet the cost of inspection and superintendence of warehouses. Then section 16 provided that the license fees and penalties levied under the Act were to be applied in the following manner, viz. 20 per cent. to the payment of the costs of inspection, any balance therefrom being credited to the Municipal Fund; and by section 17 the remaining 80 per cent. was to be devoted to the maintenance of an efficient fire-brigade by the Commissioner of Police.

He submitted for consideration whether these provisions should be allowed to remain, or whether they required any alteration; because, although it appeared that at present the actual cost of inspection was less than 20 per cent. of the collections, it might be that such actual cost might hereafter increase, but notwithstanding such a probable contingency, the provisions of the Bill would limit the expenditure for such purpose to 20 per cent., and in the same way, although the whole of the 80 per cent. was at present directed towards the maintenance of the fire-brigade, no doubt on the understanding that the whole of it would be necessary for the purpose, still it might hereafter turn out that the whole of the 80 per cent. was not necessary for the maintenance of the fire-brigade: what then was to become of the surplus in the hands of the Commissioner of Police? He therefore submitted whether it was not desirable that the provisions of the Bill might be altered, so that, after meeting the actual cost of inspection and the maintenance of the fire-brigade, the balance, if any, should go to the Municipal Fund.

Then as to section 27. The general word "commodity" used in the section was very wide. He was aware that, notwithstanding the general import of the word, the Local Government would not extend the Act by making it applicable to cases where it should not apply. He was quite confident that the Local Government would not include any commodity which did not properly come under the spirit and general purview of the Act. He did not in the least imply any want of confidence in the Government or expect any improper inclusion of any article which should not be included. But he at the same time thought it his duty to draw attention to the use of such a general term as had been used in the section under consideration, and he believed that with a view to secure precision in a legislative enactment, and to leave no place for argument as to its real meaning and intention, and in order to remove all doubt and ambiguity from it, the use of a general expression liable to misconstruction should be avoided. He submitted for consideration whether it was at all necessary to retain the expression in addition to the terms already found in the section. The section already contained the expression "any other fibre," which meant any other fibre such as jute and cotton, and that was quite enough. Was it necessary in addition to this to use the word "commodity"? And while the Council was considering the point regarding the use of general expressions, it was well to bear in mind the case of the Suburban Municipality, which was enabled in consequence of general expressions of this kind to make *golpatta* houses the subject of a license for keeping inflammable articles. If that was so, nobody could say what might not be contended to be included within the word "commodity," although there was no doubt that the intention of the Legislature was to include only articles such as jute and cotton.

In section 29 it appeared to him that there was an erroneous reference to section 24, probably due to a misprint. The section gave power to arrest persons committing certain offences in respect of which penalties were provided in various sections of the Bill. But in section 24 no penalty was provided; that section merely enacting that certain powers conferred by the Bill on the Commissioner of Police in respect of Calcutta and the Suburbs should be exercised in the Municipality of Howrah by the Chairman of the Commissioners. This was clearly an oversight and would of course be remedied.

These were the provisions of the Bill to which he wished to draw the attention of the Hon'ble Mover and the Select Committee.

The Hon. Mr. Reynolds said, with regard to the observations which had been made by the Hon. Member with reference to sections 16 and 17 of the Bill, that he was not prepared to accept the principle that the Commissioners should be allowed to apply such portion as they thought necessary of the receipts from jute licenses towards the cost of inspection and superintendence. It had been a subject of complaint that one of the Municipalities concerned had defrayed what ought to be considered general expenditure from the proceeds of the Jute Fund, and in proposing to allow 20 per cent. for the cost of inspection and superintendence, he was actuated by the conviction that 20 per cent. of the receipts would be a fully sufficient amount to allow for the purpose, that sum being decidedly more than the present

percentage of expenditure. Although this matter would be considered by the Select Committee, speaking for himself he entertained a strong feeling that the principle of allowing the Commissioners to charge such amount as they thought proper against the cost of inspection and superintendence, would be a wrong one.

Then, with regard to section 27, he might say that the word "commodity" was reproduced from the present law. He believed it was introduced originally with the object of including such articles as hay, straw, and wood. That question had been a good deal discussed, but he believed it was now generally admitted that only fibres, such as flax, hemp, jute, and cotton, ought to be brought within the application of the Act.

With regard to section 29 he was responsible for the reference to section 24, which he thought necessary. But he might be mistaken, and no doubt the matter would be considered by the Select Committee.

His Honor the President said he did not know what rules prevailed in this Council as to giving publicity to Bills introduced, but he thought that, with regard to a Bill of this sort, special arrangements should be made to send copies of the Bill to the Chairmen of the Municipalities concerned with a view to the submission of any objections, remonstrances or suggestions which the members of those municipalities might desire to bring to the notice of the Select Committee.

The motion was put and agreed to.

The Council was adjourned to Saturday, the 17th instant.

Saturday, the 17th February 1883.

Present:

His Honor the Lieutenant-Governor of Bengal, *Presiding;*
The Hon'ble G. C. Paul, C.I.E, *Advocate-General;*
The Hon'ble H. L. Dampier, C.I.E.;
The Hon'ble H. J. Reynolds;
The Hon'ble C. P. L. Macaulay;
Colonel the Hon'ble S. T. Trevor, R.E.;
The Hon'ble T. T. Allen;
The Hon'ble J. E. Caithness;
The Hon'ble Bhudeb Mookerjee, C.I.E.;
and
The Hon'ble Harbuns Sahai.

AMENDMENT OF THE PORT IMPROVEMENT ACT.

The Hon. Mr. Reynolds moved that the report of the Select Committee on the Bill to amend Act V of 1870 be taken into consideration in order to the settlement of the clauses of the Bill.

He said that since he gave notice at the last meeting of the Council of his intention to bring forward this motion to-day three memorials against the Bill had been presented to the Council and circulated to Hon. Members. Of these one was from Messrs. Carritt and Company and other tea brokers, another was from the British Indian Association, and the third from some 200 persons who described themselves as land owners and traders in Calcutta. He should be the last person to attempt to dissuade the Council from giving the fullest consideration to any expression of public opinion on this or any other question; but he thought, he might say he would have had no difficulty in getting twice the number of signatures to a memorial in favour of the Bill if he had thought it necessary to do so. He would therefore ask the Council not to count the number of signatures to the memorials before them, but to weigh the argument and statements advanced in them. He would first take the memorial of Messrs. Carritt and others, all of whom were tea-brokers. These gentlemen performed the useful and necessary function of intermediate agents between the producers and the purchasers of tea. He admitted that the Port Commissioners in their proposal for the construction of a tea warehouse had not specially had the interests of tea-brokers in view, but rather the interests of the growers and consumers of tea. He would even go further and admit that if this Bill could by any possibility injure any one it might be those brokers who had godowns of their own for the storage of tea. He had been told that this was the case with Messrs. Moran and Messrs. Thomas, and he had also been told (though in this he might have been misinformed) that this was not the case with the other firms who had signed the memorial. But, however that might be, the argument put forward by these gentlemen was a perfectly straightforward one, and from their point of view a perfectly justifiable one. It appeared to him that their remark about what they called vested rights was somewhat out of place. He could not admit that the fact of the possession of a godown by one person gave the owner a vested right to prevent others from having godowns. But the argument in the memorial was simply this: "Do not force this Bill because it will be injurious to our interests." He did not believe that this Bill would have any such injurious effect as was alleged; but, under the circumstances, he would ask the Council dispassionately to weigh the two sides of the question. On the one side there was a great public improvement and convenience, and on the other side they had an objection from a handful of monopolists, who thought that this public improvement would interfere with the profits which they at present enjoyed. He did not mean to use the word monopolists in any invidious or offensive sense, but he believed it was the fact that these firms practically enjoyed a monopoly of the tea-broking business in Calcutta, and it was certainly the fact that the signatures to this memorial could be counted on the fingers of one hand. The other two memorials he would take together, because they were substantially and fundamentally the same. The first remark he had to make with reference to these memorials was that the greater part of them was really outside the four corners of the Bill before the Council. He had already explained, and he found he must explain again, that this was not a Bill to

enable the Port Commissioners to erect a tea warehouse. The Port Commissioners were quite competent under the law as it stood to build a tea warehouse, and they had no necessity to come to the legislature to enable them to do that. The Bill was intended to give them power to provide accommodation for the sampling and selling of tea, which they did not possess at present, in a warehouse which they already had power to construct. He would refer again to this part of the arguments of the memorialists, but he would remark here that the matter was really outside the question before the Council. Then there was the question of the Strand Bank lands and the alleged promise given by Lord Dalhousie in 1853. That again was irrelevant to the question before the Council, and it was fully considered and discussed and decided a few months ago when the Port Commissioners made an application for permission to erect warehouses at Juggernath Ghât. This being so, he thought it was hardly reasonable that a question which had been so recently discussed and decided should be revived in connection with a Bill with which it had really nothing to do. Lord Dalhousie only said that the erection of elevated buildings on the Strand Bank was not then contemplated, and it was forcing language to contend that that was an absolute pledge that no Government should at any time for all eternity erect or permit to be erected buildings of such a nature. Great changes had taken place within the last 30 years, and many things which were not contemplated under Lord Dalhousie were not only contemplated but carried out under Lord Ripon. There was another remark which he must make with reference to this part of the question. It appeared to be assumed that the tea warehouse was to be erected on the Strand Bank land which the Port Commissioners rented from the Government. He wished to say that that was not the case. The Port Commissioners paid about Rs. 38,000 for the Strand Bank lands which were rented from the Government, and they had expended large sums of money and made large improvements upon those lands, and had no doubt made a profit from them. But it was not proposed to erect the tea warehouse upon any part of those lands, but on the Armenian Ghât site, upon lands which had been made over by the Government to the Railway Company, and which were purchased from the Company by the Port Commissioners at a cost of more than four lakhs of rupees; and he might almost say that it would be inequitable if the Government, after allowing the Port Commissioners to purchase these lands for the express purpose of erecting a tea warehouse, were now to turn round and say to them that they would not allow them to erect this warehouse.

But the main argument of these two memorials undoubtedly was not merely that this Bill ought not to pass, but that the Port Commissioners ought not to erect a tea warehouse at all. As to what was said about interference with private capital, he thought it was rather late in the day to bring forward such a plea. There was not a single improvement which the Port Commissioners had carried out within the last 12 years on the river bank, which had not involved an interference with private capital. When the Port Commissioners built jetties they interfered with the owners of cargo-boats. When they constructed a tramway they interfered with the owners of hackeries. These acts

of interference with private capital had been carried out to the immense advantage and improvement of the port. With regard to the tea warehouse he was fully prepared to meet the memorialists on their own ground, and to assert, in the most forcible language, that there could absolutely be no work in which the Port Commissioners could more legitimately employ their enterprise and their capital than in building a warehouse for the storage and shipment of tea. It was their business to provide accommodation for goods landed and to be shipped, and there was no article which more emphatically fell within the category of goods to be shipped than tea did. Almost the whole produce of the tea gardens (at any rate on this side of India) was exported as soon as possible after it was ready for the market. The trade in tea was not a stationary or diminishing one, nor was it small or insignificant. It at present amounted to about 600,000 chests, and each chest containing 80lb., the total came up to nearly 50 millions of pounds per annum. The trade was rapidly increasing, and the consumption of Indian tea in England was extending, and new markets were being opened out in Australia and the United States, and he saw no reason to doubt that the present export might before long be doubled. It was this trade, already large and daily expanding, which the Port Commissioners desired to benefit and accommodate by the warehouse which they proposed to construct. They had no personal interest to serve in the matter. They did not even expect that the warehouse would bring in a large profit to the revenues of the Port Trust. But they had no doubt that it would pay the expenses of its construction and maintenance and leave a small margin of profit, and that at the same time it would be a great advantage and convenience to an important and growing branch of the industry of the country.

THE HON'BLE THE ADVOCATE-GENERAL said that before this motion was put he desired to make a few remarks upon it. The ground upon which the motion was supported had been stated clearly and properly by the Hon. Member in charge of the Bill upon a previous occasion, that the projected measure would be a great public convenience and advantage to the tea trade. The opposition which had been raised contained amongst others the following grounds:—Interference with, or injury to, private rights; injury to the owners or lessees of tea warehouses, and a doubt as to whether the undertaking would be successful in practice. The statement of the Hon. Member to which he had adverted had not been, in Mr. Paul's opinion, directly traversed, namely that it had not been directly stated that the projected measure would not be a great public convenience and advantage to the tea trade. It might be conceded that injury to private interests would result from the passing of the Bill, but he apprehended that the statement and admission of such injury did not carry the question sufficiently far. It must be shewn that, while private interests would be injured, public interests would not be sensibly advanced. Private interests must of necessity yield to public utility and public benefit; and the true principle in legislating on these and cognate matters was the balance of convenience over inconvenience—advantages over disadvantages When the subject under discussion was viewed in that light, he thought the opposition altogether failed.

He would for a moment glance at the principal facts connected with the question under consideration. It was proposed that godowns or tea warehouses should be built near the jetties or places of shipment. When that had been done the tea chests would be conveyed from the railway terminus direct to such godowns or warehouses, either upon the tramway of the Port Commissioners or in carts. That operation would save double cartage from the railway terminus to private godowns, and from thence to the jetties or places of shipment, so that the cost of transit would be diminished, and the chances of breakage would be lessened. These results were surely advantages to the tea trade and public benefits. He for one would not discourage or hamper private enterprise by public opposition;—on the contrary he was one of those who would afford protection in all matters of private enterprise and native industries, especially in the earlier stages of their development. But in the present case private enterprise could not by any possibility accomplish the contemplated purpose. The land required for the desired object must of necessity be in the vicinity of the jetties, and that land belonged to the Port Commissioners. Now, the view that he had just put forward lay so evidently on the surface of this enquiry as hardly admitted of any doubt, but if support were needed he could go further and refer to the observations which fell from the Hon. Member opposite (Mr. Caithness) at the last meeting, when he said that the Chamber of Commerce had withdrawn their opposition in favour of the proposed scheme.

When the bridge was constructed across the Hooghly, doubtless the interests of boatmen, who had theretofore conveyed passengers and goods across the river, almost without competition, were materially affected and their daily gains suffered considerable diminution. Had these people objected to the construction of the bridge on the score of injury to their private rights savoring of vested interests, would their complaint or opposition have been attended to? Clearly not. The immediate and ready answer would have been that the proposed bridge was a work of great public utility; that it would be a great improvement and the means of affording expeditious and cheap transit for passengers and goods, and would protect them against the risks and accidents of the river. Now in point of principle was there any difference between that case and the present one? He certainly held that there was not. The high rates of carriage or freight materially impeded the commercial prosperity of this country. He had reason to believe that if the rates of freight and carriage in regard to various articles of commerce by railway and otherwise were reduced, and put on a level with the ruling rates in other countries, India would be able to compete successfully with those countries, and especially with those countries where the distances were as great as they were in India. For instance if the railway freight or cost of transit of wheat in India were reduced to the rates prevailing in America, and railways extended in various directions, he believed that the production of wheat in India would be considerably increased; and as the cost of production in this country was apparently less than in America, India would, in all probability, be able to feed the whole of England or at all events to contribute to do so to a great extent. The saving in the expense of transport

and carriage was an important desideratum in commercial transactions, and as the present Bill professed to contribute to that end, he thought it ought to have the cordial support of the Council.

COLONEL the HON. S. T. TREVOR said that, after the exhaustive statements made by the Hon. Mover of the Bill, and by the Hon. and learned Advocate-General, in favour of this measure, it was perhaps hardly necessary for any one else to speak in favour of it. But considering that the objections which had been raised had been against the principle of the Bill, he would like to state the reasons why he thought the principle of the Bill was quite sound.

He was a thorough advocate for legitimate private enterprise, and should be very sorry to give his vote in that Council to any Bill which he thought would interfere with it. He invited the Council to see how far that could be said with truth about this Bill. The particular enterprise which the Port Commissioners were entrusted to carry on was that of providing the port of Calcutta with suitable appliances and accommodation for facilitating the landing and shipping of goods, and for carrying on export and import business generally. In English ports these facilities were afforded in docks, which were created and managed entirely by private enterprise, that was to say by Joint-Stock Companies and Railway Companies. If any such companies were engaged in any such enterprise in Calcutta, it would be a legitimate complaint to make that the creation of a Port Trust by Government to do what such companies were already doing, was an interference with private enterprise. But no such companies existed here, and it was because there seemed to be no prospect of their soon existing, and because the improvement of the port could no longer be delayed, that the Port Trust was created by Government twelve years ago. The question then arose—was there any limit to be put on the powers and operations of the Port Commissioners because it was a *quasi*-Government institution; or should they be permitted and encouraged to introduce here, to the fullest extent which their means and the circumstances of the port allowed, all those improvements and appliances for facilitating trade which the growing experience of every day shewed it to be advisable to adopt in other ports? In his opinion there should be no such limit. The very reason for the existence of the Port Trust was that all suitable and necessary improvements and appliances should be introduced into the port, and if the Commissioners failed to act up to the requirements of the day, it would be a legitimate ground of complaint to the trading community, and producers generally, that their interests were neglected. In all docks in England, warehouse accommodation was always provided, where the processes of sampling and bulking and selling were carried on. The economy of handling goods was there reduced to a science. The railway carried goods to the very door of the warehouse, and steam or hydraulic cranes then came into play to lift the goods to any part of the building An incredible amount of work was got through in this way in a very short time, and at very small expense. The capital invested in providing all these facilities was content with comparatively small dividends. Now, if it could be shewn that in Calcutta facilities of this sort existed through the agency of private enterprise, it might be urged with propriety that this Bill

should not be passed, and that the Port Trust should not have powers given them which might put them in a position of competition with it. But such facilities did not exist, and it was impossible in the present circumstances of the port that they could exist, unless they were provided by the Port Trust, or in the Port Commissioners' premises.; for the Commissioners were in possession of the river bank and the jetties and the railway, the proximity of which to each other was essential to the purpose. What did exist was a vested interest in the old methods by which the business of the port had hitherto been carried on. Those old methods involved expenses and charges which, while they were a profit to agents, were a source of very appreciable loss to a much larger class of persons interested, namely, producers and consumers. It was inevitable that with the increase of trade in crowded centres, such as the business part of Calcutta was now growing, these old methods must give way, and be superseded by new and scientific methods of handling, moving, and disposing of goods, so as to economise time, trouble, and expense. This was not interference with private enterprise. It was progress. And the progress of the past in this direction was nothing to what the progress of the future must be to keep pace with the development of railways in this country. It was a mere accident of the present stage of affairs that the business of providing for the expansion of the port was in the hands of a *quasi*-Government institution like the Port Trust. But as time went on, he hoped they would have private enterprise started to supplement their operations, when the present limits of the port were insufficient for the trade of Calcutta. It would be no encouragement to the growth of such private enterprise to stunt and hmit the operations of the Port Trust, and so ensure their failure. On the contrary, the greater the success of the Port Trust, the greater would be the encouragement to private enterprise to undertake a share in the future expansion of the accommodation of the port.

His Honor the President said that before putting the motion to the Council he wished to say a few words. Apparently there was no opposition in the Council to this measure, and he could only regret that some of those gentlemen who had opposed it out of doors were not amongst them to state their own views in person. The Government had often been charged in this country with too little regard for public opinion, and with an absolute and arbitrary desire to pass such measures as they wished without any regard to outside views. He wished to show that in this case the Government had been entirely guided by a constitutional regard for law on the one side, and eventually had adopted the views represented by the Chamber of Commerce as to the great advantages which this measure would afford. The first proposal which emanated from the Port Commissioners on the subject was dated more than a year ago, in the time of Sir Ashley Eden. The proposal then was for the provision of accommodation for the purpose of the sampling and selling of tea, and for sanction to the erection of a building for the purpose. It struck the Lieutenant-Governor that under the terms of the law as it stood the power to do so was not available to the Port Commissioners, though they thought it was. He therefore referred the question for the opinion of the learned Advocate-General, Mr. Paul, who

distinctly declared that the Port Commissioners had not the power under the law as it stood. On the 22nd February 1882 Mr. Paul recorded an opinion that it was quite clear that the construction of the proposed tea warehouse at Armenian ghat for the purposes contemplated was not authorized by section 39 of Act V of 1870. With this clear exposition of the law Sir Ashley Eden had no resource but to tell the Port Commissioners that they could not carry out their intention while the law remained as it was. However the Port Commissioners were not satisfied with this reference to the law adviser of the Government as to the correct expression of their own intention; and, in their letter of the 8th June, which came before His Honor, they stated their views at considerable length. In deference to the position of the Port Commissioners in this place he thought it right again to submit their second reference to the Government Advocate-General, which office was then filled by Mr. Phillips in the absence of Mr. Paul. Mr. Phillips recorded the same opinion, and nothing was left for the Government but to tell the Port Commissioners that, under the existing state of the law, they could not do what they wanted. But in forwarding their second remonstrance, as he might call it, they brought to His Honor's knowledge a fact that had not before been very certain, namely, that the great majority of the mercantile community in Calcutta were favourably disposed to the action proposed to be taken by the Port Commissioners in this matter; and they forwarded a letter from the Secretary to the Bengal Chamber of Commerce, in which that opinion was very clearly recorded. For the satisfaction of the Council he would read a paragraph from that letter bearing upon the point:

Mr. Wood said—

"The Committee now find that there has been a change of opinion on the subject. The result of the reference just made shows that while one-third of those interested adhere to their original opposition to the construction of the warehouse, a majority of two-thirds are in favour of the project."

Further the letter from the Secretary went on to say that—

"The large majority of the members of the Chamber are in accord with their own views in favour of the warehouse, and trust that this will help to strengthen the hands of the Commissioners in pressing their proposal upon the acceptance of the Government. But while the Committee thus lend their support and the support of the Chamber to the scheme, and are confident that by judicious and careful management of details it will realise all that is expected of it, they only do so on the clear understanding that their use should be optional, because they are strongly opposed to anything in the shape of pressure or compulsion that would interfere with the perfect freedom of the firms engaged in the tea industry to conduct their business as they may think fit."

Here, then, the Council had the fact that those who had a right to advise the Government in such a matter as dealing with the commercial interests of the city were entirely in favour of the project which the Port Commissioners wished to bring forward; and the Government, and His Honor for his own part, could have no hesitation in saying to the Port Commissioners that, though they could not do what they wanted under the law as it stood, he was quite ready to support and favourably entertain any proposal which they might make to amend the law, in promotion of the general commercial interests of

the town and place. Hence the Bill and hence the proposal now before the Council to pass this Bill into law. It seemed to him quite clear that under it the use of the warehouse would be perfectly optional, and its advantages to the mercantile community would be very great, and therefore he had no hesitation in supporting the motion. Whatever private interests were affected, the case was one where "to the public good private respects must yield."

The motion was agreed to and the Bill was then passed.

TRAMWAYS IN BENGAL.

COLONEL the HON. S. T. TREVOR presented the report of the Select Committee on the Bill to provide for the making and for regulating the working of road Tramways in Bengal. He said he did not propose to carry the Bill to any further stage on the present occasion, and he could hardly say when it would be possible to do so, as it was necessary under the rules of the Legislative Department to submit the Bill, which contained certain penal clauses, to the Government of India before it could be finally passed. The Bill contained the usual penal clauses, which were considered necessary for the protection of the public and the promoters of the undertaking; those clauses were almost identical with the corresponding provisions of the Calcutta Tramways Act, and he did not therefore anticipate any objection being raised against them.

The Council would see from the report of the Select Committee that some changes had been made in the Bill. The word "road," both in the preamble and title, had been struck out. It was considered that the retention of the word would have the effect of restricting the operation of the Act to those Tramways which were constructed on public roads already existing, whereas it might be found necessary to diverge from existing roads or carry them across places where there were no roads. Another alteration which had been made was in section 23. The Bill as drafted fixed the maximum rate of fare at 3 annas for any distance not exceeding three miles; but it was pointed out that those rates would only be suitable for Tramways in towns where there was a large population, and would not be suitable for long lines of Tramways, such as the Himalayan Tramway and others of that description. The section had therefore been amended to meet this state of things. Section 36, which provided for the settlement of differences between promoters and local authorities or other persons affected by the works undertaken for the construction of Tramways, had been struck out altogether. He had mentioned a doubt as to the propriety of retaining this section when he introduced the Bill, and the learned Advocate-General had since expressed the opinion that it ought not to be retained in the Bill, as it ousted the jurisdiction of the High Court. The last clause of the draft Bill, as introduced, fixed the manner in which the calculation of the value of a Tramway, when purchased by a local authority, should be made. The Select Committee had decided on omitting that clause and substituting for it a provision to the effect that the value to be placed on the Tramway should be calculated in such manner as may be settled in the agreement entered into between the promoters and the local authority and set forth in the order of the Local Government. It was considered that a certain

limit should be fixed beyond which it was not desirable to postpone the power of purchase. That limit was fixed at 21 years, and beyond that period at intervals of seven years afterwards. It was also thought desirable that the promoters and local authorities should have the power to fix any shorter interval than that. There was one question brought forward with regard to section 3 where it provided that a majority of two-thirds must be present and vote at a special meeting at which a resolution approving of their intention to construct a Tramway was passed, and it was represented that this placed it in the power of a small minority, of a little over one-third, to prevent the establishment of a Tramway by staying away or abstaining from voting. But after full consideration of the question it was decided that in a matter so important to the interests of a local authority, it was proper that the proportion of members which the Bill provided should be required to meet for its discussion. Another proposal which was also considered was that in some instances, as in the case of Patna, the local authorities had already met and passed a resolution in favour of the project submitted to them, and it was thought that if the proposal in the Bill was passed, it would be necessary to meet and do the work over again which had already been done, and thus cause unnecessary delay. This matter was also fully considered, and it was decided not to introduce any such proviso. It might be that the agreement which had been entered into would not be legal in the absence of any law on the subject, and it would perhaps really complicate matters instead of advancing them, so the Bill had been allowed to stand as it was. He could not say when the Bill would be brought forward again, because it would be necessary to await the answer of the Government of India on the reference which had been made to them.

CONTROL OF PORTERS, &c., IN DARJEELING AND KURSEONG.

THE HON. MR. MACAULAY presented the report of the Select Committee on the Bill for the general control of Coolies in Hill Municipalities, and in doing so he said that he did not propose to make any motion at that stage of the Bill, as the measure contemplated the infliction of penalties which must, under the standing orders, be submitted to the Government of India before the Council passed the Bill. He might mention, however, that the postponement of the Bill would be attended with advantage in one respect. Only that morning a memorial from the British Indian Association on the subject of the Bill had been laid before the Council and Members of Council would have an opportunity of considering it before being called upon to pass the Bill. Had the memorial been submitted to the Select Committee they would have been able to have seen that a great many of the objections which had been brought forward had been based upon a misconception of the measure as originally drafted. Some of the other objections had also been provided for by amendments in the scope of the Bill which had been made by the Select Committee. It was proposed not to attempt to define "coolies," as that might perhaps be a difficult task, and the Bill had therefore been restricted in its scope to porters and dandeewallas who were engaged in conveying passengers and loads within the limits of municipalities. He thought there could be no doubt that there would

be no chance of coolies working in tea plantations being brought under the control of this measure. It was also proposed, without attempting to lay upon any one the duty of defining a "hill municipality," to say that the Bill should only extend to the Municipalities of Darjeeling and Kurseong. The Select Committee did not consider that the Bill should be republished, but he thought that under present circumstances it would probably be well to republish the Bill for general information.

The Council was adjourned to Saturday, the 24th instant.

Saturday, the 24th February 1883.

Present:

His Honor the Lieutenant-Governor of Bengal, *Presiding;*
The Hon. G. C. Paul, C.I.E., *Advocate-General;*
The Hon. H. L. Dampier, C.I.E.;
The Hon H. J Reynolds;
The Hon. C. P. L. Macaulay;
Colonel the Hon. S. T. Trevor, R.E.;
The Hon. J. E. Caithness;
The Hon. Bhudeb Mookerjee, C.I.E.;
The Hon. Mahomed Yusuf;
and
The Hon. Harbuns Sahai.

JUTE-WAREHOUSES AND FIRE-BRIGADES.

The Hon. Mr. Reynolds presented the Report of the Select Committee of the Bill to amend the law relating to Jute-warehouses and Fire-brigades. He said that, as the Select Committee had recommended that the Bill as amended by them be republished, he did not propose to bring forward any motion on the Bill till further time was given for consideration.

LOCAL SELF-GOVERNMENT.

The Hon. Mr. Macaulay introduced the Bill to extend the system of Local Self-Government in Bengal. He said that he did not propose at this stage to enter upon any discussion of the details of the measure His object for departing from the usual course was that his colleagues might have an opportunity of making themselves fully acquainted with the provisions of the Bill before they were called upon to discuss it. It had been represented to him by more than one member of the Council that it would be desirable that they should have some further time for this purpose, and he would therefore, with the permission of the President, reserve his remarks until the motion for referring the Bill to a Select Committee came before the next meeting of the Council. He might, however, be permitted to say one or two words with reference to the delay which had taken place in the preparation of the Bill. The Council were aware that the drafting of such a measure as this

in the middle of the Session, when Select Committees and the Secretary were cosntantly engaged upon other Bills, was a work of no ordinary difficulty. But the difficulty had in this case been much enhanced by the sudden and serious illness of the Secretary Mr. Reily, who, he regretted to say, had been compelled to take leave to Europe. They had, however, been fortunate in obtaining the assistance of his learned friend Mr. Macgregor, and he deemed it right to inform the Council that it was mainly owing to Mr. Macgregor's ability and the untiring industry with which he had devoted himself to this task that there had not been still further delay in bringing the Bill before the Council. MR. MACAULAY had also to express his acknowledgments to his Hon. friend Mr. Reynolds, who had been good enough to assist him with his great knowledge and experience in revising and settling the terms of the Bill. He then moved that the Bill be read in Council.

HIS HONOR the PRESIDENT said that he thought it was in accordance with the general wish of the Council that any discussion on this measure should be deferred for another week. Personally he was quite willing to meet those wishes, not only on account of the length of the Bill, but on account of its great importance. Therefore he thought it would be better on all grounds that the Council should reserve any remarks they wished to make till the next week when the motion would be put to the Council to refer the Bill to a Select Committee.

The motion was put and agreed to

The Council was adjourned to Saturday, the 3rd March 1883.

Saturday, the 3rd March 1883.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *Presiding;*
The HON. G. C. PAUL, C.I.E., *Advocate-General;*
The HON. H. L. DAMPIER, C.I.E.;
The HON. H. J. REYNOLDS;
The HON. C. P. L. MACAULAY;
Colonel the HON. S. T. TREVOR, R.E.;
The HON. J. E. CAITHNESS;
The HON. BHUDEB MOOKERJEE, C.I.E.;
The HON. MAHOMED YUSUF;
The HON. HARBUNS SAHAI;
and
The HON. CHUNDER MADHUB GHOSE.

LOCAL SELF-GOVERNMENT.

HON. MR. MACAULAY said:—"I have the honour to move that the Bill to extend the system of Local Self-Government, which I introduced at the last meeting of the Council, be referred to a Select Committee consisting of the

Hon. the Advocate-General, Hon. Mr. Reynolds, Hon. Mr. Allen, Colonel the Hon. S. T. Trevor, Hon. Bhudeb Mookerjee, Hon. Mohamed Yusuf, Hon. Hurbuns Sahai, and myself. As I entered so fully into the nature of the scheme to which this Bill gives expression when I had the honour of moving for leave to introduce it, I need not now trouble the Council with any detailed review of its provisions. I will only draw attention to some points which appear specially to call for elucidation, and which I was unable to discuss at sufficient length in my introductory speech. The Council will observe that the authorities for the execution of the Act will be Union Committees, Local Boards, and a Central Board, all under the control of Government. The first point to which I wish to invite particular attention is the qualification of Union electors in section 7 of the Bill. That qualification has been fixed with the object of excluding only landless labourers, who cannot be expected to take any interest in the affairs of the Union. It will be observed that all persons who pay the minimum chowkidari rate will be qualified as electors. Where the Chowkidari Act is not in force the cultivators generally will be admitted under the provision that all persons who pay any road-cess shall be entitled to vote. There will be cases where cultivators do not themselves pay road-cess, but hold land which stands in the name of others. Most of these, however, will again be admitted under the qualification of a clear income, from any source, of sixty rupees a year. I do not think it would be possible to frame a more comprehensive system of qualification than section 7 provides. In my opening speech I said that it would be a part of the policy of this measure to foster and strengthen these Union Committees and to make them a real link between the people and the Local Boards. If the Council will turn to the sections which relate to the Union Fund, and the duties and powers of Union Committees, they will, I think, recognise that every endeavour has been made to fulfil that pledge. They will, I think, admit that the position of the Committees will be sufficiently important, and the powers and responsibilities entrusted to them sufficiently substantial, to attract the most intelligent villagers and to promote an interest in the management of their own affairs among the rural electors at large.

The constitution of the Local Boards will be such as I have already described to the Council. There will ordinarily be three members for each thanna, but, as some thannas are very much larger and more important than others, power has been reserved to sanction departure from this standard in special cases. Where one-half of the area of a thanna is under Union Committees, at least two members for that thanna will necessarily be elected. Where this is not the case the members may be either elected or nominated as the Lieutenant-Governor may direct. In any case one-third of the whole number will be appointed by the Central Board, but the number of Government servants appointed must not be more than one-fourth of the whole number constituting the Board. Where election can be held, the electoral body will be composed of the members of the Union Committees of the thanna, and men

of a certain standard of education who possess local interest in the thanna and reside either within the circle or in a contiguous Municipality. The qualifications of candidates have not been altered, except that I have included persons residing within five miles of the circle. In England the limit is seven miles. It will thus be possible for a person to be a member of more than one Local Board, but I do not see that there can be any objection to this.

The area under each Local Board, in other words the area of each Local Government Circle, will be such as may be determined by the Central Board acting under the control of Government. The Local Government Circle may be conterminous with the district, or there may be several circles in the same district. As I have said in the statement of objects and reasons, the principles to be borne in mind are, on the one hand, that the area under a Local Board should not be so large as to render it impossible that the bulk of the members should have some knowledge of the tract to be administered, and should be able to devote personal and practical attention to its administration; and, on the other hand, that it should be large enough to provide duties of sufficient importance to interest men of education, and advanced enough to provide men of education and some knowledge of affairs for the performance of those duties. I need not now repeat the reasons for which it is considered that the district area is too large to secure these advantages of knowledge, practical interest and personal attention. And I think it is equally obvious that no area smaller than that of a sub-division will as a rule give a charge of sufficient interest and importance. There are districts where, from the paucity of men capable of serving with efficiency on Local Boards, it will be impossible to have more than one Board, but undoubtedly where this is the case the work will be badly done and Local Self-Government will only be a name. It is generally admitted that we cannot make any advance if we have nothing intermediate between the District Board and the village. But, it is asked, why should we not have Local Boards in the different sub-divisions, with a District Board to control them? I will state the objections to such a system. In the first place the District Board would take away from the importance and prestige of the Local Boards to which we must really look for the work of the sub-division. In the second place it would also add another link to the administrative chain, and cause delay, waste of power and division of responsibility. Under the scheme which the Bill proposes, if a complaint is made to the Central Board, by one of its Inspectors or otherwise, that some Union Committee is neglecting its duty, the Central Board will send an order, or a request for enquiry, to the Local Board, and the Local Board, which will meet frequently, will be able to take early action upon it, and to issue the necessary injunction to the Union Committee. Now suppose that there is a District Board. The Central Board must send all its orders and enquiries through it. The District Board could not meet more frequently than once a month, and there would thus necessarily be delay, which would be repeated in the transmission of the reply from the Local Board; and to this delay at both stages would be added the waste of power, the friction and the division of responsibility which must result from the intervention of a number of autho-

rities. If it is urged that the orders or reports could be transmitted by a standing committee of the District Board, I reply that if this is merely routine work it could as well be done without the intervention of a District Board at all, while if it is not routine work it should be considered by the full Board. If it is to be considered by a small working body, that body may as well be the Local Board on the spot as a Committee at head-quarters. I do not lose sight of the fact that there are objects of common interest which cannot with advantage be dealt with by each Board independently. Some of these only affect Boards in the same district; others affect Boards in different districts, and these would not be provided for under a system of District Boards only. Among the first is the rate of road-cess. It is plain that this cannot be different in different parts of the same district. It would be quite impossible for the Collector to realize it under such circumstances. Provision has therefore been made in section 74 for an annual meeting of delegates from each Local Board in the district, where there is more than one, for the purpose of fixing the rate of road-cess. For purposes in which two or more Boards, whether in the same district or in different districts, is interested, such as a main road, a system of drainage, a system of water-supply, and the like, provision has been made for the creation of Joint Boards which will exercise, in regard to the work in question, all the power of the concurring authorities. The Joint Boards can only be created with the sanction of the Central Board, but, subject to that sanction, arrangements can be made for their appointment, so far as they regard circles within the district, at the annual conference of delegates. Joint Boards for circles in different districts must be formed from time to time as circumstances arise. This system will secure such advantages as may be claimed for District Boards, while it will secure other advantages which they would not give and will at the same time be free from their disadvantages. The Joint Boards will be in no way superior to the Local Boards. They will deal only with the subjects of common interest which have been entrusted to them, and will have nothing to do, in their corporate capacity, with the ordinary work of the constituting Boards; while each will correspond directly with the Central Board in regard to its own functions. There will thus be neither waste of time nor waste of power nor division of responsibility, and there will be the manifest advantage that Boards belonging to different districts will not be debarred from concurring for common objects.

The more the plan of District Boards is examined the less does it commend itself on the grounds of necessity, of convenience or of precedent. The Bengal District is merely a fiscal unit established for administrative purposes and liable to modification as administrative convenience suggests. Beyond the fact that they have the same Collector to deal with, the same Judge to appeal to, and, should necessity arise, the same jail to go to, the people of many a sub-division have nothing whatever in common with those of other sub-divisions in the same district. In many cases they have much more in common with the people of a sub-division in another district. Ranaghat

has much more in common with Baraset than it has with Kooshtia ; Serampore has more in common with Howrah than it has with Jehanabad. A sub-division belongs to one district to-day, to another to-morrow. I might give a score of instances. Raneegunge has been attached at different times to Beerbhoom, to Bankoora and to Burdwan. Jehanabad and Rampore Haut have passed more than once from one jurisdiction to another. The other day Khoolna and Bagirhat were under Jessore, and Satkhira was under the 24-Pergunnahs; they now form a district by themselves. Bankoora to-day contains a large tract which a few years ago belonged to Purulia, and Purulia contains a large tract which a few years ago belonged to Bankoora. Midnapore is made up of the old districts of Midnapore and Hidgellee, while Tirhoot has been split up into the new districts of Mozufferpore and Durbhunga. The boundaries of districts are fixed or modified to suit the special purposes which the district unit is supposed to serve. But there is no magic in the word district, and no tradition in the particular combination of thannas or pergunnahs which in each case it represents. If a different combination is found more suitable for a special purpose, that combination should be adopted. Now a different combination for the purposes of Local Self-Government is more suitable where the thannas forming a sub-division can produce work and men for a Local Board; and in such cases that combination should accordingly be accepted. I quite allow the force of the statement that, as a rule, there are more educated men at the head-quarters of a district than at an outlying sub-division. This is perfectly true, and it affords a good ground for having a Board for the head-quarters sub-division. But it affords no ground for refusing a Board to other sub-divisions, in which there are also qualified men, and it affords no ground for injuring the efficiency of such a Board by putting it under another Board at head-quarters. I have seen our districts compared with English counties. But I would ask what analogy exists between such geographical expressions as I have described, and counties of which the boundaries have been unchanged for centuries, and which have sent their own representatives to Parliament, since the days of Simon de Montfort. I would ask what analogy exists in point of education, of communications, of tradition, of public spirit, of physical habits, of personal activity, whether among the country gentlemen or among the yeomanry and the peasantry between Buckinghamshire and Burdwan. Yet they are only now constituting real county Boards in England after centuries of Local Self-Government. Are we to begin in Bengal at the point which they have only just reached in England ? I cannot too strongly urge, what I said on a previous occasion, that if the educated men in Bengal seek to attain the end without practising the means, the policy by which Government is seeking to promote their welfare will result in failure. That end is political advancement. Those means are the steady, thorough and efficient discharge of public duty, and by it the acquirement and transmission among the people of habits of self-reliance and self-help in public matters, and of sound and practical interest in the administration of local affairs. And it is by its success or failure in providing for the employment of those means that this measure must stand or fall.

I now turn to the funds to be at the disposal of each Local Board. It will be observed that the first item in the Circle Fund is "such proportion as the Central Board may direct of the District Road Fund of the district, after payment of the expenses mentioned in section 109 of the Bengal Act IX of 1880 as amended by this Act." I must explain that, though the term "District Road Fund" will in districts where there are two or more Local Boards be a misnomer, it has been found impossible to dispense with it without re-casting the whole of the Cess Act. Not only the general cost of district establishments, but the cost of special valuations, service of notices and other expenses have to be borne by the District Fund, and it would lead to endless confusion to attempt to lay the charges upon separate funds for each sub-division according to the estates contained in it. The term "District Road Fund" is therefore retained down to section 109 of the Cess Act, the point at which its application is dealt with, and it is provided that, after payment of all expenses connected with valuation and collection, it shall be divided among the Circle Funds of the district in such proportion as the Central Board may direct. It is evident that such a provision as this is required, and that each Local Board cannot claim to spend the whole of the road cess levied within its circle. Some circles, especially the head-quarters circles, will contain roads which benefit other tracts, and it is impossible that they should have to bear all the expense of maintaining communications in the advantages of which other circles participate. The only points connected with the application of the Circle Fund to which I need advert are that the provision contained in section 181 of the Cess Act is reproduced, the Central Board being specially mentioned as one of the establishments towards the cost of which the Fund must contribute, and that provision is made for the payment of the travelling expenses of members delegated to attend the annual conference of Local Boards, or attending a Joint Board when its office is situated in any other circle.

As regards the general duties and functions of the Local Boards, I have first to point out that they are authorized to elect their Vice-Chairman absolutely, and their Chairman subject to the approval of Government. An important provision has been made in section 65 to ensure that a copy of all papers connected with the business to be transacted at each meeting shall be in the hands of each member at least five days before it is held. From section 69 it will be observed that the Board will have power to determine its own establishment subject to the provisoes that no appointment carrying a monthly salary of Rs. 100 or upwards shall be created or filled up without the sanction of the Central Board, and that the aggregate amount spent by it on its Public Works establishment, with a proportionate share of the cost of its general establishment, shall not exceed 25 per cent on the total amount available for expenditure on public works. With reference to the first of these, I need only remind the Council that the Government of India cannot create an appointment of Rs. 250 a month without the sanction of the Secretary of State.

I now desire to invite the particular attention of the Council to sections 77 and 78 of the Bill, and to sections 151, 152, and 153 of the Cess Act for which they are substituted. Under one section of the present law, the District Committee is empowered to fix the rate at which the road cess shall be levied, and under another the Lieutenant-Governor is empowered to compel them to levy the cess at the maximum rate should he consider that the rate at which they have determined to levy it is insufficient for the performance of necessary works. That is to say, we tell them one day to fix the rate they may consider suitable, and we may the next day compel them to fix some other rate. It seems to me that we must adopt one of two alternatives. Either we must fix by law the rate at which we consider that the cess should be levied, or we must abandon direct interference with the discretion which we give of fixing the rate. Speaking for myself only, and without any authority to bind Government on this point, I must say that to my mind the second course is the only one that is consistent with the policy which we have adopted. There will be very little Self-Government, even in theory, if we fix by law the rates at which local cesses for local purposes are to be levied. The only ground for fixing the rate by law would be the fear that it might be reduced by the Boards to the detriment of the public interests. I venture to think that fear is not likely to be realized. I do not lay much stress upon the fact that all the Committees now levy the cess at full rates, except in Backergunge where full rates are avowedly not required. The Committees have doubtless acted very much under the influence and guidance of the officers of Government. I trust, and believe that that influence and guidance will continue to be felt. But if we grant a discretion, we must count upon its being exercised. In many districts the Local Boards will, I hope, be really working bodies under non-official Chairmen. But I have confidence that in these last districts the men to whom it will fall to give this system its first essay will not do anything to discredit it. I have confidence that they will not abuse the privileges to be accorded to them, and that they will have the good sense as well as the patriotism to recognize that on the manner in which they acquit themselves before the world of the trust now committed to them, will depend in great measure the immediate political future of their country. Had I not that confidence, I should say that an extension of Local Self-Government in Bengal was a mistake. Should, however, the power be abused, and works be allowed to suffer, there will always remain the power of supersession which section 164 of the Bill confers upon Government. It seems to me far better to rely upon that power than to fence in the system with a provision which would deprive it of a great deal of its essential character. As I have said, these are my personal views only, and are not given as the views of Government. The Bill will be circulated for the opinions of all the district and divisional officers, and it will hereafter be for the Select Committee to recommend, and for the Council to adopt, such a provision as may seem to them most suitable under the circumstances.

It is not necessary that I should notice in any detail the further sections which refer to the responsibilities and powers of the Local Boards. Some of

the sections relating to local works are transposed from Part III of the Cess Act which it is proposed to repeal with the exception of two sections. It will be seen that large powers are to be given in regard to education, medical, pounds, ferries, sanitation, water-supply, vaccination, census-taking, famine relief, exhibition and fairs, and the like. It is provided in section 30, clause 6, that all sums allotted by Government for such purposes as famine relief and taking of a census shall be credited to the Circle Fund. The sections relating to Control follow the lines which I indicated in my opening speech, when I explained fully the principles which it is intended to adopt; and I need not recapitulate their provisions.

Before I conclude, I must say a few words regarding the attitude of the officers of Government in relation to this measure. The Members of the Council have already been supplied with copies of the opinions of the Commissioners and of such reports of district officers as the Commissioners have submitted, and the papers have been published with the Bill I may say at once that it was never expected, and that it could not be expected, that all officers would or could recommend an immediate extension to their charges of a complete measure of Local Self-Government, comprising a system of general election and freedom from internal control and direction. It was fully recognized by Government that there were districts in which a very limited measure only could be introduced, and that there must be many gradations from a practical continuance of present arrangements up to the full development of the measure in contemplation. The Bill which I have laid before the Council distinctly provides for this. But, though officers may very properly represent that their district is not fit for general election (indeed I think that there are few districts regarding which as a whole any other representation could be made), or that they think trained guidance for a time will be necessary in the interest of the Boards themselves, this is surely not opposition to the policy of Government. On the contrary, with very few exceptions, the criticisms and proposals made indicate a distinct approval of that policy as a policy, and a desire to give it the fullest effect and to lead it to ultimate success. I cannot think that the original proposal to have general election by the people of large areas could properly have been accepted in view of the circumstances of the majority of our districts. But I believe that, when this Bill comes to be reported upon, much of the objection that has been made, and properly made, not to the principle, but to the local application, of the elective system, will give place to acceptance of that system now that it is proposed to make it practicable through the medium of Union Committees In regard to Chairmen much the same may be said. In some districts the immediate appointment of non-official Chairmen has been proposed; in others arrangements are suggested under which non-official Vice-Chairmen may become Chairmen after a period of probation; in others it is frankly, and I doubt not correctly, stated that no person can be found who is willing and able to discharge the duties of the post. But I see in the great majority of the reports nothing but a desire to help the policy forward so far as may be practicable with due regard to its own ultimate success, and I can see no

jealousy of non-official influence. The most liberal-minded officer in charge of a backward district would be wanting in his duty if he reported in favour of an extension to it of the measure as originally proposed in its integrity. But if the Council desire to see how the officers in charge of advanced districts have received the proposals of Government, I would ask them to turn to the reports of Mr. Westmacott, Magistrate of Dacca; of Mr. Stevens, Magistrate of 24-Pergunnahs; and Mr. Larminie, Magistrate of Burdwan.

I have only one word more to say. I have seen it stated, in an article which combined much able criticism with some misconception of the scope of this measure, that the scheme which I developed in my opening speech would be unfavourably received because it rests on a basis of work, and that this indeed is its worst feature. I am, perhaps, not the best judge of the features of the measure; but I must confess that in my judgment this is not its worst feature, but its best feature. It is said that the scheme should aim more directly at political education and less directly at work. Now, Sir, I cannot conceive how any scheme of Local Self-Government in India, whether as a measure of administration, or as a measure of education, could possibly succeed unless it proceeded on a basis of work. I cannot see how any Government could, without a grave dereliction of its duty, introduce a system of Local Self-Government in India resting on any other principle than work. I cannot see that there could be any value, any solidity, any endurance about political education that was derived from talk and not from work. We do not teach boys Thucydides and Demosthenes before we teach them Xenophon and Lucian; and if we were now to neglect the practical part of Local Self-Government, we should only unfit our educated men for political education in its highest sense by setting them to work upon unrealities. They would lose and the public interests would suffer. Local Self-Government can only be successful if the people do the work; they will learn nothing by leaving it undone. It is for this reason, and because we believe that Local Self-Government must inevitably fail if we look to names and theory, instead of to realities and practice, that we have proposed to combine the political enthusiasm of our educated men and the practical knowledge and interest of the rural population, through the system of Local Boards and Union Committees. And I am glad to see that the importance of this object has been fully acknowledged by the leaders of native opinion. I am glad to see that, far from receiving the scheme with disfavour on the ground that it is based upon work, the representatives of the educated classes of Bengal cordially recognise that the Union Committees, as supplying a basis of work, will be essential to the stability of the measure. I accept that recognition as a matter of very happy augury. It confirms me in the confidence that the demand for Local Self-Government in Bengal rests on something more stable than sentiment. It confirms me in the confidence that those who have been credited with nothing more than visionary political enthusiasm will shew that they are capable of a sound and practical conception of the work to be done in order that the legitimate objects of that enthusiasm may ultimately be realized. And in this confidence, I submit the Bill to the consideration of the Council.

The Hon. the Advocate-General said: "The observations which I am about to make might have been made, perhaps, more opportunely at the introduction of the Bill. I understood, however, that the papers would be circulated and the Bill itself would be sent to members, in order that they might be able thoroughly to understand the measure before expressing any decided opinion upon it, and I now avail myself of this opportunity which has been afforded me. Although the observations which I shall presently offer might have been made on a former occasion, they are nevertheless relevant to the motion now before the Council, as they convey a clear expression of opinion on my part that the present motion should be negatived. Having read and heard much of what can be said on the Bill under discussion, I have arrived at the conclusion in my own mind that the present measure is a mistake. I think I may fairly lay claim to some—if not an accurate—knowledge of this country and of its people, of their capacity and their habits, of their virtues and their failings; and forming my opinion on my knowledge and experience, I feel satisfied that the country is not sufficiently advanced, and that its people do not possess the necessary qualifications to undertake and carry out the responsible and difficult task of Local Self-Government; that, in point of fact, the time has not yet arrived for a complete and radical change in the constitution of Municipalities and for the transfer by the Government of some of its most important powers, duties, and obligations to a class of persons not yet fitted to be entrusted with such powers, or to be charged with such duties and obligations. The explanation given at the outset of the considerations to which the present Bill owes its origin will be found in paragraph 5 of the Government Resolution of the 18th May 1882, and I proceed to read it:—

"'At the outset, the Governor-General in Council must explain that, in advocating the extension of Local Self-Government, and the adoption of this principle in the management of many branches of local affairs, he does not suppose that the work will be, in the first instance, better done than if it remained in the sole hands of the Government District Officers. It is not, primarily, with a view to improvement in administration that this measure is put forward and supported. It is chiefly desirable as an instrument of political and popular education. His Excellency in Council has himself no doubt that, in course of time, as local knowledge and local interest are brought to bear more freely upon local administration, improved efficiency will in fact follow. But at starting there will doubtless be many failures calculated to discourage exaggerated hopes, and even in some cases to cast apparent discredit upon the practice of Self-Government itself. If, however, the officers of Government only set themselves, as the Governor-General in Council believes they will, to foster sedulously the small beginnings of independent political life; if they accept loyally and as their own the policy of the Government; and if they come to realise that the system really opens to them a fairer field for the exercise of administrative tact and directive energy than the more autocratic system which it supersedes,—then it may be hoped that the period of failures will be short, and that real and substantial progress will very soon become manifest."

"Now, Sir, I am not aware that a legislative body can with justice or propriety be moved to interfere with or to disturb any existing state of things by an appeal to displace it in favour of a measure tentative and experimental, depending upon principles either untried heretofore or tried under powerful control, or under different conditions. The desire to use a legis-

lative scheme as an instrument of political and popular education implies that the persons to whom power is to be entrusted are yet not fitted for the discharge of their duties, and that they require to be educated before they become fit and competent. This position itself is a sufficiently strong condemnation of the proposed scheme. In the ordinary routine or concerns of private or public life, we do not employ workmen to do work for which they are not fitted; we do not place a man in the Army and order him to command a company without having previously educated him for that purpose; we do not engage a person to construct a bridge unless he has been educated in engineering and has a practical knowledge of the subject; we do not appoint as the principal officer of any public department of Government one who is not at the time of nomination absolutely fit for the appointment: why then is this Council called upon or required to sanction a scheme for Municipal administration to be conducted by persons who have not as yet received their education, and who will have to learn before they will be fit and competent to undertake their duties? While on the one hand I admit that it is fair and honourable to indulge in the hope that the people of this country will learn the lessons they are to be taught, on the other hand I am unable to shut out from my mind the serious consideration due to the following contingencies: That the people may altogether fail to master their lessons; that, if they succeed, their success may be achieved at some distant period of time; that in the interval and before the promised land of happiness and sunshine is reached gross blunders may be committed and grave mishaps may occur; and that public interests may thereby suffer irreparable damage or serious injury. If it be a fact, either patent or not open to reasonable doubt, that the people of this country are sufficiently advanced to undertake the responsibilities which it is proposed to cast upon their leading members, and urgent necessity exists for the proposed step, or if it can be demonstrated that the present arrangement is defective and deserves to be superseded by a system more practical, more perfect and effective, a Bill originating in these circumstances and prepared in reference to these points may with propriety be laid before this Council for its consideration and adoption; but in the present instance the grounds which I have mentioned are not taken; on the contrary, it is broadly asserted that the Governor-General in Council does not suppose that the work will be, in the first instance, better done than if it remained in the sole hands of the Government District Officers.

"Under these circumstances it is but too plain that we are invited to initiate and adopt a new principle of legislation, to give countenance and support to a measure admittedly experimental, attended with the risk of failure, enveloped in doubt and uncertainty, and unsuited to by far the major portion of the native population of India, and that the requisition or appeal now preferred is based on nothing more nor less than the desire to favour political and popular education, inducing and inspiring the hope that the experiment to be tried under our sanction will, in due course of time, the limit of which it is impossible to predict, bear fruit and prove beneficial to the people of India. This prospect, though full of fascination, and these considerations, though

laudable and doubtless conceived in a spirit of pure benevolence, do not, in my humble judgment, furnish sufficient or valid ground for our interference with the existing state of things by the introduction of a piece of experimental legislation. Were I satisfied that the measure under consideration would result in a present and permanent benefit, that it would secure beyond reasonable doubt the welfare and happiness of the people of India, I would gladly and cordially support it. But while I would do so if substantial reasons were found to exist, I must enter my humble protest against the invitation to legislate on the subject of a scheme more or less speculative and clearly open to the risk of failure. My sense of the responsibility which attaches to our functions as legislators precludes me from according my assent to the proposed measure. I believe it to be the duty of every person in power to do his utmost to secure the welfare and happiness of the people amongst whom he lives. Had I the honour of being entrusted with a measure of reform, my thoughts would turn in a different direction and to other matters which certainly require and demand reform. I would endeavour to improve the administration of justice so that the people of India might enjoy greater security in regard to themselves and their property. Reverting to the subject of political education, I would point out that the intention of the Government to promote the political education of the people would be better carried out by associating members of the native community with District Officers trained in the duties which appertain to Municipal institutions, than leaving them to educate themselves in a state of isolation—of disassociation with those from whom they might learn their lessons on the subject of Local Self-Government."

THE HON. MAHOMED YUSUF said:—"Before I entered this hall I had not the remotest idea that there would be any opposition to the Bill. Leave having already been unanimously given by the Council to my hon. friend Mr. Macaulay, at a previous sitting of the Council, to introduce the Self-Government Bill, the business now before the Council was, as appears from the list of business, the consideration of a motion to introduce into the Council a certain Bill circulated amongst the members of the Council with a statement of the objects and reasons appended to it. This implies a foregone conclusion in favour of the expediency and necessity of an enactment on the subject. So that strictly speaking the proper matter for the present consideration of the Council is the form and shape of the Bill which has just been introduced by the Hon. Mover, who next intends to move that the same be referred to the Select Committee. The questions open for discussion on occasions like the present relate to a consideration of the best form which the Bill should assume, and not to a consideration that the Bill should assume no form at all.

Although the Hon. Advocate-General, who has opposed the Bill, being of opinion that the measure is a mistake, is aware that he is strictly speaking not in time to put forward his opposition to it, still I am obliged to make these observations, because no one who has had any experience of Mr. Advocate-General's talents and abilities ever likes to see him in the opposition. Every one who knows him also knows the strength of his mind, and the force of the

arguments which he adduces in support of the particular view which he takes. The position which he takes is frequently unassailable, and the ground upon which he stands is often too impregnable for an attack. But in the present instance, speaking with the highest deference to the views which he entertains, I submit, with all respect due to him, that his premises are not correct, and therefore the conclusion drawn by him is erroneous. And that, although the observations made by him should lead the Council to be careful as to the form and mode which legislation should assume, still those observations have failed to convince me that the measure is in any way unwise or inexpedient, or that it is not good policy to introduce the same in India, or that the country is unfit to receive the same and unprepared for it.

Stated shortly, the position taken by the Hon. Advocate-General amounts to this: That it is admitted that the measure is a tentative and experimental one, and its success is doubted by its best advocates; that although the people of the country have not qualified themselves for it, still the measure is sought to be introduced as the means of educating the people in the political line. He argues that inasmuch as qualification should precede and not follow the introduction of the measure by which Self-Government is to be given to the people, and inasmuch as it is admitted that the necessary qualification does not exist, Self-Government should not be introduced into the country. By way of illustrating his argument he points to the case of the Engineer, for instance, who must first have a certain qualification before he could be entrusted with certain duties, and in support of his position he cites a passage from the resolution of the Supreme Government where it is said that the measure is chiefly desirable as an instrument of political and popular education.

Now I deny that the country is generally disqualified for Self-Government, or that the people of the country have not sufficiently advanced in education to be considered fit to be entrusted with the duties and privileges of Self-Government. I deny that those who advocate the policy of Self-Government admit that the people are disqualified, and I deny that the measure is sought to be introduced altogether as a tentative and experimental one.

I think that a large portion of the country is prepared for Self-Government, and that the people have under the beneficence of the British rule attained that point of general education and general culture when they could very properly be considered fit to be entrusted with the duties and privileges of Self-Government, which would simply enable them to advance one step from their general education by introducing them to political education, and thus furnishing them with opportunities of familiarising themselves with political matters which, notwithstanding their capacity and fitness, they have been unable to do as they never had an opportunity to do so. The germs of success are existing; there is no lack of ability or qualification in the people; the only thing that was wanting was opportunity, and that opportunity is now furnished by the Government to the people. A new faculty is not sought to be created, but that which had lain dormant in consequence of disuse and want of practice is sought to be revived by occasion being given for its use and full development.

If an opportunity is not afforded, there never will be a beginning. There is no school for education in political matters, where people should first go and qualify themselves in politics in the abstract before you could put them in charge of a district for the purposes of Self-Government; but if the people are sufficiently advanced and educated in a general way, you may safely entrust them with the duties of Self-Government, although they may not have had a trial before. To entrust them with such duties is to begin with their political education, which can only be acquired by practice, and not by going to any particular school.

It is incorrect to cite the above passage from the resolution of the Supreme Government as an admission that the people generally are unprepared for the duties of Self-Government, and that the measure seeks to qualify them for the first time; because, reading the whole of the resolution, it seems to me that the conviction that the country was prepared for the measure preceded the idea of introducing this measure. Not only is there in the resolution a conviction that the country is prepared for the duties and privileges of Self-Government, but the Supreme Government is delighted to learn that success has invariably been achieved in the past, whenever some step, however small, was taken to introduce in the country Self-Government in any small shape however, and that if previous attempts have resulted in failure, that was because those attempts "have been too far overridden and practically crushed by direct though well-meant official interference." I may also here mention that in this country even illiterate persons shew a very marked degree of intelligence, and that, although they may not have received what is called a liberal education, still every just critic entertains the belief that they evince every aptitude and fitness for the practical management of the ordinary duties of life, and are not wanting in stamina and energy to make life successful.

When those who are better judges than myself have thought in this train, it is useless for me to say that I do not agree with the learned Advocate-General in thinking that the measure should not at all be introduced, or that the political education of the people would be better advanced by associating them with the district officers rather than by leaving them to educate themselves in a state of isolation and of disassociation with those from whom they might learn their lessons.

But, as I said above, the arguments of the learned Advocate-General are not without their effect, and if they have failed to convince me that the measure is one which should be put a stop to, they have not failed to assure me and support me in what I have thought in the matter, viz. that the scheme should be one having very great elasticity in it. Because, although it is impossible to say that no part of the country has attained the requisite point in education, and has not qualified itself to be entrusted with the duties and privileges of Self-Government, it is likewise impossible to affirm that every part of the country is so educated and qualified.

In India and Bengal there are parts of the country in which no one can doubt that the scheme will prove a success. On the other hand there are other parts of the country in which the success of the scheme will be doubtful.

and although it is no argument that because the scheme is not likely to succeed in every part of the country, it should not be introduced at all, still the anticipated failure of the scheme in some parts of the country shews that too great care on the general frame of the Act cannot be bestowed. I therefore submit that the only lesson which the speech of the learned Advocate-General should teach us is to shew that the scheme should be drafted with such elasticity that it should provide both for places where every one believes it would succeed and for places of apprehended failure; that although there is no valid objection that the measure should at first be extended to the whole of the country, still the Bill should provide for its being withdrawn from places where it shall have been found that it would not by any means succeed.

There being therefore no sufficient reason for throwing out the Bill, I fully support the Hon. Mover who has moved for its introduction, and before it is referred to a Select Committee, I desire to make a few observations on some of the salient points of the Bill.

And in submitting my observations to the Council, I am fully aware that the present is the first reading of the Bill, when observations made upon it necessarily relate to general principles, and the Hon. Member in charge of the Bill having done me the honour of naming me a Member of the Select Committee, I will not trouble the Council with matters of details which will come to be considered by the Select Committee in the natural course. But while I am addressing the Council, I desire to avail myself of this opportunity of expressing my gratitude to the Government for the initiation of this policy, and I hope I shall not be called to order for doing so, although by doing so I may make a small digression from the business in hand.

Sir, believe me that, in the whole of India, there is but one feeling pervading all the educated and intelligent and right-thinking population of the country, viz. that of thankfulness and gratitude to both the Supreme Government and the Local Government for the initiation of the policy which has resulted in the introduction of a measure which seeks to bestow on the conquered race the privilege of governing themselves within certain limits. The scheme will go down to posterity with the names of your Honor and Lord Ripon as the promoter and originator of the scheme, and those names will ever be cherished and remembered by the people of the country for generations to come with feelings of most sincere thankfulness; for it is impossible to exaggerate the benefits of the scheme to the country, or to say where the results of it would stop. But our thanks are due to the Government, not only for the initiation and introduction of this measure, but also for the manner in which it has been initiated and introduced. Not only is a real and substantial scheme introduced, but, what is more to the point, it is introduced with the most anxious care that it should succeed. Whether it will succeed or not, it is impossible for me at present to say; but this I can say without fear of contradiction, that both the Supreme and Local Governments are imbued with one desire, viz. that the scheme should prove a true success in the country. Whatever is likely to conduce to its success is clearly and steadily kept in view; whatever

is supposed to have operated as a cause of past failure in cognate matters, or may tend to produce a similar failure, is thoroughly sifted and eliminated, and nothing which would tend towards its success is left unthought of. And, generally, the attitude taken by the local officers has not been one of hostility towards the measure, although in certain matters there is observable, as was expected, great diversity of views, as the mass of papers freely circulated with the Bill amply demonstrates.

The task of framing the Bill could not have devolved upon an abler person than the Hon. Member in charge of the Bill; for we find he has spared no pains in executing his task in the same liberal spirit in which it was conceived by the Government, and within a comparatively small space of time, since leave was given, we have before us a thoroughly practical Bill logically arranged, part by part, in which the principal matters to be provided for are clearly and categorically dealt with, and the whole of the subject is exhaustively treated and clearly and lucidly enunciated. The Bill is an enduring monument of the Hon. Mover's ability, industry, wisdom, and liberality of views, and our best thanks are due to him, not only for what he has done, but for what he thinks in the matter, and for the views which he entertains in favour of the policy which he sincerely maintains, and honestly and earnestly carries out, with a considerable degree of care and forethought.

The subject with which the Hon. Mover had to deal was one of immense difficulty. It is easier to lay down the principles than to prepare a scheme, and the Local Self-Government scheme is one of peculiar difficulty because you cannot rely upon past experience of any very great value. A new Act is to be framed; no old Act is to be amended and improved upon. A new foundation is to be laid, and all the while you are seized with a certain degree of mistrust which enhances the difficulty of the task, for men whose opinions could not be lightly treated have entertained doubts as to its success, and those doubts the framer of the scheme cannot by any means lose sight of or disregard.

But notwithstanding the difficulty of legislation in the matter, the question is, in what way to legislate so as to present a workable scheme and at the same time ensure success and avoid failure. The difficulty of the case is further increased by the circumstance that, having no past experience for our guide, we cannot pronounce with positive certainty upon any particular scheme which might suggest itself, or which might be suggested by others, for consideration in connection with the subject, as the one likely to succeed as a matter of course.

Our present position in connection with the measure I take to be this. I take this Bill to be the first embodiment of the principles of Self-Government. That Bill must be taken to be the groundwork upon which the fabric of Self-Government is to be built. It contains the first impressions on the subject. All suggestions are to be made in reference to it; although nobody is at present committed to anything. The Bill, after it shall have been referred to the Select Committee, will stand over for a time, and the public will have ample opportunity to criticise the Bill, and there can be no doubt that the Select Committee

will have to consider various suggestions, some of which there can be no doubt will be very valuable, and might be fit for being adopted.

But notwithstanding all this, we must see whether the Bill embodies the necessary general principles, and whether any suggestion could now with propriety be made for the consideration of the Council in general, or of the Select Committee in particular.

The Government having determined, for certain reasons, that the administration of certain departments of Education, Sanitation, Medical Charity and Local Public Works should be made over to the people of the country, the question is, what is the best way of carrying this determination into effect The solution of the question, although attended with great difficulty, is not unlikely to be attained if we keep in view two general principles in the matter of the Self-Government policy. The first principle is that, when unpaid labour is sought to be utilized, you must so contrive as to secure both local interest and local knowledge in the people whose labour you seek to utilize. I do not think this principle can be disputed. If I were called upon to do something for the people in Bombay or Madras, I would have neither local interest nor local knowledge in any scheme put forward for the benefit of the people, and the result would be that my efforts would end in failure. But if I were called upon to manage something connected with my own house or mohullah, I think I shall in all probability succeed, because the work is of such a nature that I have interest in seeing it carried out, and as to which I have local knowledge. It is for this reason that I think the idea of Union Committees is a wise and happy idea, and cannot but command success. It is therefore clear to my mind that in every district, where intelligent non-official agency can be found, there should be extended and maintained a network of Local Boards to be charged with definite duties and entrusted with definite funds. Hence, as at present advised, and until a better idea is suggested, I am prepared to support the idea of Unions to be found in the Bill proposed by the Hon. Mover.

The second general principle referred to above is that the agency for the execution of the principles of Self-Government, the persons who are to be entrusted with the duties of Self-Government, should have some freedom, although, at the same time, they must be placed under some sort of control. As regards the application of this principle, I am not quite clear whether the Bill contains all that it should contain, and nothing more. And although it is not necessary for me at the present stage to draw the attention of the Council to what might be objectionable in the Bill from this point of view, because, as I have said above, the Bill will be carefully considered by the Select Committee, and its provisions might be altered and modified, where alterations and modifications would be deemed necessary and desirable, still it would be better for me in the meanwhile to invite attention to the following considerations. In the Resolution of the 10th October 1881, the Supreme Government, in paragraph 9, expressed itself in the following terms:—

"It would be hopeless to expect any real development of Self-Government if local bodies were subject to check and interference in matters of detail; and the respective powers of

Government and of the various local bodies should be clearly and distinctly defined by statute, so that there may be as little risk of friction and misunderstanding as possible. *Within the limits to be laid down in each case, however, the Governor-General in Council is anxious that the fullest possible liberty of action should be given to Local Bodies.*"

It is therefore quite clear that the scheme, in order to succeed, must be one by which real power is entrusted to the local authorities, and real responsibility thrown on them. No artificial restrictions should be imposed on the transfer of the local funds to the local authorities: the transfer should be with as full control as may be practically expedient over the details of the expenditure.

The Board should be left unfettered in the initiation, direction, and control of certain measures: the success of the scheme will depend upon the amount of independent power to be conferred upon the local agencies, and the greater the trust reposed in those bodies the greater will be the cordiality, earnestness, and industry with which the work will be performed.

All the generous wishes of the Government may be defeated if the provisions of the Bill do not ensure honest and effectual working. The most important condition necessary for satisfactory working is to secure the sympathy of the workers, and this cannot be done unless the members of the local bodies are convinced that they are entrusted with and have responsible duties to perform. On the one hand it is necessary to be cautious, and to provide for checks against maladministration, but on the other hand if the checks be such as to make the members of the Local Boards think that they are mere ciphers designed to play a spectacular part, you cannot have their sympathy, nor convince them that they are responsible. In order that the plan should succeed, you must find out where check will be salutary, and where it may be meddling.

To what extent this meddlesome course has been adopted in the Bill I shall not now dwell upon to any extent; but I cannot shut my eyes to the fact that the checks and counterchecks devised seem to me to leave no room for any very great liberty of action. If the Unions can do nothing without orders, and have to do everything under orders, their liberty might be likened to that of the private soldiers in the ranks of a regiment, and if this analogy is correct, it is hard to conceive that there would be Self-Government in anything else but in the name. If there should be failure under such circumstances, the punishment should go to the Central Board and not to the members of the Unions who have merely been the passive instruments of higher authorities.

If these observations have any force, and if the Bill is susceptible of improvement in these matters, I feel sure that the necessary amendments will be made by the Select Committee. But I have thought it necessary to draw attention to this portion of the Bill in order that we should see whether the Bill does really vest any real responsibility in the Local Boards. So far as the intentions of my friend the Hon'ble Mover are concerned, I have not the slightest ground for any objection, because I learn from his speeches made on two occasions—once when leave was asked for the introduction of the Bill, and for a second time to-day—that it is his wish that real responsibility should be imposed on the Local Boards and substantial powers given to them. The

intention being clear, and being all that could be desired, the whole matter is reduced to this—what are the words that should be used, and what are the provisions that should be embodied in the Bill in order to give effect to that intention.

The next point upon which I shall touch relates to the offices of the Chairman and the Vice-Chairman. In this matter I do not think that any improvement can be made in the provisions of the Bill: no fault can be found with them. The offices of Chairman and Vice-Chairman have been left to election, and it is necessary that this should be done, because cordiality of action between the Chairman and the Vice-Chairman and the members of Local Boards is essential to the success of the measure; and that can only be secured when people feel that the Chairman and the Vice-Chairman are taken out of them and belong to their number. But there is one matter to which I should draw attention, and that relates to a point which has been, to a certain extent, discussed in the Select Committee in connection with the Municipal Bill, namely, the advisability of allowing the Magistrate to be appointed a Chairman even by election. Some doubts have been entertained on this point by competent people. The Supreme Government, in the 18th paragraph of the Resolution of the 18th May 1882, referred to this subject; and although some passages in it do not quite bear on this precise question, I will, with the permission of the President, read an extract from it to the Council. The Resolution says—

"It does not appear necessary for the exercise of these powers that the chief executive officers of towns, sub-divisions, or districts should be Chairmen or even members of the local Boards. There is, indeed, much reason to believe that it would be more convenient that they should supervise and control the acts of those bodies without taking actual part in their proceedings. The Governor-General in Council is aware that many high authorities hold that the district officer should always be *ex-officio* Chairman of all the local Boards within the district, and should directly guide and regulate their proceedings This was, indeed, the view taken by the Government of India itself in the circular letters of the 20th October last, so far as the constitution of district Boards was concerned. But even then the Governor-General in Council did not see his way to accepting the principle in the case of municipal Boards, and further consideration has led him to the belief that, on the whole, it is better to lay down no such general rule in the case of any class of local Boards. There appears to him to be great force in the argument that so long as the chief executive officers are, as a matter of course, Chairman of the municipal and district committees, there is little chance of these committees affording any effective training to their members in the management of local affairs, or of the non-official members taking any real interest in local business. The non-official members must be led to feel that real power is placed in their hands, and that they have real responsibilities to discharge. * * * *

"The Governor-General in Council, therefore, would wish to see non-official persons acting, wherever practicable, as Chairman of the local Boards."

It does not appear that this precise question, whether the Magistrate should be appointed a Chairman even by election, was before the mind of the Supreme Government when recording this Resolution, because the Resolution uses the words "as a matter of course" in connection with the question before it. This question is perhaps for the first time raised in this Council, and whatever solution may be arrived at in reference to this point under consideration in

connection with the Municipal Bill might be considered equally applicable to the present Bill. I myself have not quite made up my mind what suggestion to offer in this matter. I should first like to know what persons more competent than myself think on the point. In the meantime, however, I have thought it my duty to draw the attention of the Council to it.

The next point relates to the constitution of District Boards, whether in substitution of, or in conjunction with, the Local Boards. On this question, although, as on other questions, it is not necessary that the Council should form a final and decided opinion at the present stage of the Bill, ample time being left to consider it in all its phases before the final passing of the measure, still, as at present advised, it does not appear to me why these District Boards are necessary or desirable. It is essentially necessary that there should be Union Committees, because, without them, there will be no local interest or local knowledge. If there are Union Committees, it follows that there should be Local Boards to preside over and control a certain number of Unions, it being impossible for one Board sitting in the district to undertake the gigantic task of controlling all the Unions in the district; but I cannot understand what necessity exists that, in addition to the Unions and the Local Boards, there should be District Committees. No doubt, in the ordinary course of events, we naturally find in the district what we expect, viz. that there is a larger number of educated and intelligent men there than elsewhere; but at the same time we find that the people in the district are ignorant of the wants of the people in the mofussil, and they themselves not being even remotely affected by what very intimately concerns the villagers, they have no interest in the work and no inducement to devote their time to it; whereas in the Local Boards, although there will not be that amount of intelligence and education, still there will be all that is required and necessary of local knowledge and local interest. Therefore I think District Boards are not necessary. No doubt the District Boards will be a talkative or talking body, but what we want is a working body, as contradistinguished from the talking body. There will, however, be District Boards in one sense, namely, that there will be a Local Board in the district; and if experience shows that the working of the District Boards as Local Boards is so immensely superior to that of the Local Boards proper, and that we cannot do without a District Board for the whole of the district, it will then be time to think of it and to consider whether or not District Boards should be placed over the Local Boards or in place of them. There being in the Bill several provisions for the sitting of Joint Boards, we shall have, according to the present constitution, all the advantages of the District Board with none of its failings. In fact, the idea of a Joint Board is so considerably superior to that of the District Committee, that I am at a loss to find out why there should be any demand for the District Board.

There is another point to which I must draw the attention of the Council, and that is a matter in which the poor and unlucky Mahomedan community is more closely concerned than their more powerful and more fortunate brethren, the Hindus—I mean the question regarding the representation of the minority.

Everybody knows that there are parts of the country in which the feeling between Mahomedans and Hindus runs very high.

The Council will be pleased to remember that though in most places the Mahomedan population forms a minority as compared with the larger bodies of the Hindus, still in many places they form a large proportion of the population. Or it may be that in some places, though fewer, the case is the reverse, and the Hindus form a minority. In such cases, when there is party spirit and angry feeling between the two classes of people, it is necessary to reserve power for the representation of the minority. The Bill proposes to provide for this by nomination, but it would be an advantage, and a more fit recognition of the claims of the Mahomedan population if provision could be made in the Bill for the election of Mahomedans by reserving a certain number of memberships for that community. Whatever may be the step that might be taken, and whatever may be the means that might be devised, the matter should be fully considered.

The sections of the Bill by which a certain amount of power is reserved in the hands of the Central Board may, in some cases, be sufficient for the purpose; but I submit that this point is of such manifest importance that the Council will very carefully consider it before the Bill becomes law, for it is extremely desirable that the law on this point should be made after such mature consideration as to leave no room for any doubt, and so as to meet the requirements of the case most thoroughly and efficiently. I may mention that this matter has struck the minds of other people also, because in one of the papers circulated with the Bill, namely, the report of the Commissioner of the Presidency Division (paragraph 47), I find something which bears on the question. That officer says—

"In connection with this part of the subject I have to notice one almost certain result of the adoption of the elective principle in mofussil districts, and that is the exclusion from Local Boards, and the neglect of the interests, of Mahomedans. To every one who knows the country and has watched the progress of the present movement, it is very evident that the agitators in this matter are Hindus, and that Local Boards instituted as proposed will be comprised almost entirely of Hindus to the exclusion of Mahomedans. Whether the Mahomedans may or may not have themselves to blame for this state of things is another question; but the fact remains, as I have stated above, and this fact goes very far to show how non-representative the character and constitution of Local Boards on the elective principle will be. The exclusion from administrative posts of Mahomedans in favour of Hindus is not unfelt by the former, and public expression has only lately been given to the feeling by an able Mahomedan gentleman in the pages of the *Nineteenth Century*. 'The Mahomedans,' he remarks, 'have simply been crowded off' to use an expressive Americanism, 'from the public service and the independent professions.' The entire government of the country, so far as it affects the natives of India, is virtually in the hands of the Hindus. Their influence is all powerful in every department of State, and their influence is almost invariably exercised to exclude the Mahomedans, whom they regard as aliens, from their proper and legitimate share in official preferment."

The same learned Commissioner then draws further attention to this measure by which he supposes only a small section of the community will be represented, and he goes on to say that it will have the effect of excluding fifty millions of the people of India who are Mahomedans. Although the

passage which I have read was written for a very different purpose, still, inasmuch as it embodies the true facts of the case, I have quoted it in order to strengthen my position. If the Bill is capable of improvement on this point, I hope that improvement will not be withheld.

There is another matter with which I must trouble the Council for a moment, although the opinion of some people is against me in this matter, namely, the sex of the voter. As in the Municipal Bill, so in this, the voters must be of the male sex, and females are purposely excluded. There may be some history attached to the question of female suffrage in other countries, but the matter is worth our serious and unbiassed consideration here. Females are in many cases holders of large zemindaries, and they manage their own property themselves. It would therefore be hard to exclude them from exercising the power of voting in the Self-Government scheme. The reasons which justify the exclusion of females in other countries do not justify their exclusion in this country. If females were incapable of holding property and managing it, there might be some reason for their exclusion in this Bill. But to say to females, you may hold property in your own right, you may manage it yourself, and you may appoint your servants and managers privately, but you shall not be allowed to do so publicly, passes beyond my humble comprehension. The answer to the position which I take up is that it will open a wide door to fraud. But even in the case of males there is fraud practised, and in order to avoid fraud it does not follow that males or females should be excluded altogether, because means could be devised to defeat fraud and prevent the perpetration of it. The fact that some classes of females are *purda nashin* ladies is not a sufficient argument for excluding all. Females of the upper classes only are *purda nashin*; but there are parts of the country where females of other classes hold property, and they do not conform themselves to the custom of seclusion. I submit that although conditions might be imposed to secure the proper working of the principle of female suffrage, still we are not pressed on account of any weighty considerations to exclude females altogether from taking a part in the working of the Self-Government scheme. I find in the report of the Commissioner of the Burdwan Division the opinion of the Vice-Chairman of the Burdwan Municipality thus stated—

"He suggests that *purda nashin* women and certain wealthy persons should give written votes. This is coming close to the ballot system, and opens up a wide question. As we have not yet heard of bribery or intimidation at these elections, I do not think it is as yet necessary to consider the introduction of the ballot. Persons who cannot appear in public might send an accredited agent to give their votes."

There are places where tracts of land for miles and miles together are owned by females, or of which, according to the law of succession, females would be owners, although males should happen to hold them at any particular time. What would be their position in such places? Who would vote for the local bodies who would have to govern these large zemindaries? The result of excluding females would be that the vote will be given by persons who are not interested, and who would have no concern whatever in the matter. I

submit that this point should be considered by the Council and some solution arrived at. For the present I do not think females should be entirely excluded from voting; but, if excluded, they may be allowed to transfer their right to vote to some member of the family, or to vote by means of a power-of-attorney to an agent.

Females at present are not only disentitled from being members of the Board, but they cannot give their vote at all. It is possible to understand the former, because although females in other countries, as well as in Bengal, have been Bachelors of Arts, or, strictly speaking, Maids of Art, and also Doctors, still the time has not arrived when they can be expected to undertake arduous duties, and sit in the meetings of the Boards or the Municipalities. But I do not see what objection there could be to females not being disqualified from voting for or against candidates.

The point having been raised by me in the Select Committee in connection with the Municipality Bill, the answer given was that females are secluded, and it is therefore difficult to say, in particular cases, whether they have attained majority. But in the first place I say this objection has no force in it, and in the second place the objection is not of universal or general application in India, inasmuch as the purda custom, as already pointed out by me, is confined to higher classes, and females of the lower classes also own property in the mofussil. It will, however, not be difficult in small places like the Unions to know by reputation whether a particular female voter has attained majority or not, and as time progresses, the enforcement of the rules of Self-Government, which provide for the registration of births, marriages, and deaths, will make the difficulty less and less every day. In the meanwhile it is, as I have said above, undesirable to exclude in some cases very large owners of property, who happen to be, or might very soon be by virtue of the law of succession, females.

The next matter to which I wish to refer is the provision contained in section 50. It provides that "the Union Committee may require the owner of any tank, stream, or well to cleanse or fill up the same, or may require the owner or occupier of any land which appears to be in a state injurious to health, or offensive to the neighbourhood, to clear or drain it, or take such other action with respect thereto as may be deemed necessary. If such owner or occupier makes default in carrying out the said order, the Union Committee may perform the work, and may recover the expense thereby incurred from such owner. Such expense shall be recoverable in the manner provided by any law for the time being in force for the recovery of public demands."

And the second proviso runs as follows:—

"Provided further that when the cost of carrying out any order under this section shall be estimated as likely to exceed Rs. 100, the Union Committee shall not issue such order without the previous consent of the Local Board."

Now I cannot help thinking that the power conferred by section 50 in the hands of the committee may be a dangerous power in some cases. It is

possible to imagine cases in which it would operate to the detriment of the people in an unwarrantable manner. It gives power to Union Committees to spend any amount of money they think proper on the work, and to levy the amount from the owner of the property. I would suggest that the proper principle is either to make the improvement after purchasing the land from the owner, or by requiring the owner to spend a certain percentage of his income from that property to effect the improvement; but it is going too far to empower local bodies to expend any amount of money they think proper, and levy the same from the owner of the land. In some instances this power would be ruinous to landowners, and deprive them of their right to property.

The last point on which I shall trouble the Council with my remarks relates to the provision of the Bill regarding persons convicted of non-bailable offences, and sentenced to imprisonment, which, according to the Bill, is to operate as a disability both before and after the election. In the Local Self-Government Act relating to the Central Provinces, I find this provision in a somewhat different shape. In cases of conviction it is under that Act a matter for consideration whether the person convicted of the offence continues fit to be a member of the local body; and a little consideration would show that this is the correct way of looking at the subject, because no body would suppose that a person sentenced to whipping should be considered fit and eligible, while one sentenced to imprisonment is unfit and ineligible. But in this Bill I find that the conviction of a non-bailable offence is an absolute disability. And it is also provided that if a person is sentenced to imprisonment, he shall cease to be a member.

But I do not think that in the case of a conviction for a non-bailable offence, a man, even if sentenced to imprisonment, is necessarily so degraded as to lose his right to sit in a local body, and be unfit to be associated with by others, or that he should cease to be trustworthy, although at the same time I think that it may be that the conviction of an offence of a less heinous nature might imply that result. I therefore think that in case of conviction for any offence, a man's election or continuance in office should be left a matter of consideration for the local body. Every case must be considered on its own merits, the conviction having only the effect of starting an enquiry.

These are the observations which I have the honour to submit to the Council on the Bill, and in conclusion I submit that the Government has done its duty by providing a scheme giving the greatest facilities for the working of the Local Self-Government principle. It will now remain for the people of the country to show whether the measure will prove a success or a failure. If the Government should give to the people, as it intends to do, the scheme in a workable form, and if the best advocates and friends of the people should be satisfied that that is all that is desirable, all the intelligent and educated portion of the community are of opinion that the scheme will succeed, and if after that the scheme should fail, the failure would very properly be attributed to the people. Let us in the meantime hope and trust that all will end well.

THE HON. HARBANS SAHAI said :—I beg leave to make a few observations regarding the provisions of the Local Self-Government Bill which has been conceived in such a very liberal and enlightened spirit, and has been hailed with feelings of satisfaction and gratitude throughout Bengal.

Since the time India has passed into the hands of the English, it has been their sincere and constant effort to improve her intellectual, material, and political condition, and promote her welfare generally. The generous desire of doing good and justice to the sons of the soil underlies all the measures of the Government. England has done much for India. She is daily leading her onward in the regions of progress, civilization, and enlightenment with a helping hand. For all this India is sincerely grateful to her. Whatever the natives of India may be wanting in, they are not wanting in gratitude, and this part of their character lies unimpeached even by the bitterest of their enemies.

The boon of Self-Government—the epoch-creating boon as it has been appropriately designated—is the latest on the part of the Government to the people of India, and they too from one end of the country to the other—from the Himalayas to Cape Comorin, from British Burmah to the Punjab—have sung in one voice in praise of Lord Ripon, the originator of the policy, which is calculated to base the British Government firmly upon the gratitude and affection of the people, and unite the destinies of England and India into one harmonious whole.

This policy of Local Self-Government, Sir, which is so noble in its principle, and likely to prove still nobler by the magnificent results it will doubtless achieve, has received a careful and liberal consideration at your hands. You, Sir, have acquainted yourself personally with the wants and wishes of the people, and have bestowed immense labour and pains on the subject in adapting this policy to the varied requirements and circumstances of this vast province, and elaborating it into the practical scheme now laid before the Council. Above all, you have shown a heartfelt sympathy with the just aspirations of the people, without which any scheme would but be a failure, and have resolved to bestow the boon liberally upon the people of Bengal.

For all this the sincere and heartfelt thanks of Bengal are due to you, to the Hon. Member in charge of the Bill, and other Government officers who are lending their hearty co-operation in carrying out the scheme. Though there may be differences of opinion as to details, the main principles of the Bill have been received with general satisfaction throughout the province. As to this, I speak with some degree of confidence as regards my own province, where it has given entire satisfaction to the intelligent portion of the community. The local papers speak of it in high terms; and such of the members of the Béhar Landholders Association, and educated native gentlemen of the province, as I had the pleasure of conversing with upon the subject, were loud in their praise of the principles of the Bill. This is as it should be.

Sir, the events of the last few months have clearly demonstrated that the seed which our noble Viceroy is going to sow in India will not fruitlessly be thrown over a barren land, and that it will germinate and grow into a

goodly harvest under the fostering care of the Government, and through the intelligent care that the educated people themselves will take of it.

The joyous enthusiasm which the intelligent people have evinced of late, and the anxious interest with which they are watching the progress of the scheme, doubtless, augurs well for the future of Local Self-Government, and at the same time refutes directly the specious arguments that have been here and elsewhere so ostentatiously brought forward against the fitness of the people for receiving this great boon. I cannot for a moment admit that the country is unprepared to have Local Self-Government. The enlightened policy of the British Government has been for a long time to diffuse education throughout the land, and that policy, Sir, has thoroughly changed the phase of the country: it has dispelled darkness from the land by the rays of western culture and civilization: in short, it has brought about wonderful results which England can justly be proud of, and for which India is sincerely grateful to her. It has awakened just aspirations in those that have been receiving such education, and surely this noble and bright policy would have been barren of results had this not been the case. So the seed of constitutionalism is being sown in good time, and in a land well prepared and full of promise.

Is this measure calculated to weaken the hold of the Government upon the land? I can only answer by an emphatic no; nor do I at all understand how intelligent men could concoct such unreal phantoms out of the figment of their inner consciousness. Well has the Hon. Member in charge of the Bill said that despite the surrender of the management of petty local affairs to the people, British rule may be maintained, and then, humorously, that the members of the Local Boards will not insist upon turning the English out of the country. In my humble opinion this noble policy is calculated to enhance the love, loyalty, and gratitude of the people towards the British Government, which will be placed on a solid basis.

The Union Committee of the Bill is a very grand idea, and will give universal satisfaction throughout the province. Through it the electoral franchise will reach the very masses, excepting the most ignorant, who may not avail themselves of the opportunity of exercising control over local affairs. It affords me extreme pleasure to find that to the present Government belongs the credit of awakening the dormant political life of the nation. India, amidst her innumerable vicissitudes of fortune, still fondly cherishes the memory of her ancient village communities, and still preserves its relics with pride, which contributed in times of old so much to her peace and happiness. Notwithstanding what has been said by some in power and position as to the utter want of any representative constitution among the Hindus, their ancient village communities bear sufficient testimony to their being not wholly unacquainted with the elective system. Even at the present time the remnants of the time-honoured institution of the punchayets are found here and there, and in Behar the custom of choosing umpires for settling differences and of referring petty disputes to the punchayets, wherever they exist, is familiar to, and followed by, the most ignorant villager. In support of my above observations,

I beg leave to refer to the following authorities*:—The Hindus were never an imperial people; provided that the village was free from oppression and obnoxious taxes, they did not much care who sat on the imperial throne. "Dynasty after dynasty tumbled down; revolution succeeded to revolution; Hindu, Pathan, Mogul, Maharatta, Sikh, English were masters in turn," as Lord Metcalfe, whose name is still held in veneration throughout the country, has so forcibly expressed, but the village community remained wholly indifferent to and heeded them not.†

* *Vide* W. W. Hunter—Statistical Account of Bengal, Vol. XI, Patna and Sarun, pages 91-93, 265-267.
Ditto ditto ditto, Gya and Shahabad, page 221.
Sir Henry S. Maine's Village Communities, pages 116-117, 122-123.

† *Vide* Elphinstone's History of India, 5th edition, page 68.

It was satisfied with managing its own affairs, in levying its own share of the revenue due to the State for defraying imperial expenses, in taxing itself for providing funds for its internal expenses, in managing its own mandirs, dharmasalas, tanks, wells, and in administering justice to its own members and in punishing small offences. The constitution, simple as it is, was in a high degree conducive to the well-being, happiness, and the enjoyment of a great portion of freedom and independence of the people. Satisfied with managing their own affairs, they devoted the rest of their time to the study of philosophy and religion, so congenial to the Indian mind, and left the empire to take care of itself. This, Sir, was the source of their weal and woe.

Now, Sir, it affords me much pleasure to find that the ancient village council is going not only to be revived in a different shape, but placed upon a new and reformed basis as provided for in this Bill.

This system of political education placed side by side with our present excellent scheme of primary education will, at no distant date, send a current throughout national life, from which every well-wisher of the country would expect the best results. The villagers now have no opportunity of taking any part in public affairs; these Unions will teach them to do so, will make the scheme a reality, and establish the cause upon a solid basis. The Union Committees, as the Hon. Member in charge of the Bill says, should be selected by such simple processes as may be familiar to them. This is very judicious, for any particular method of election proposed by the Government may be unknown to the villagers, and prove to be a source of unnecessary confusion and trouble.

When these Union Committees are firmly established they will exercise a great and wholesome influence over the people and command their entire confidence and respect. The day will not be far distant when the villagers will refer their petty civil disputes and differences for the decision of the Union Committee in preference to the ordinary courts, and then the committee having the best means and opportunity of ascertaining the truth will be able to arrive at a right decision. This simple mode of trial will at once secure the ends of justice and save the litigant all the trouble, expense, and time of going through a formal law proceeding, and consequently not only the executive but the judicial officers of the Government will ultimately be relieved from a portion of their work.

The educational test is very satisfactory, inasmuch as the success of the measure will rest with the educated classes, and will be received, I believe, throughout the province with joy and gratitude. The educated men are the natural leaders of the country, and to exclude them would have certainly been courting failure. But the right of voting according to the scheme will be given to holders of university degrees and diplomas. This standard, Sir, in my humble opinion, seems to be too high even for the most advanced districts of Bengal Proper, not to speak of the districts of Behar and Orissa that are comparatively backward. As a fact the majority of our graduates are attracted to the district sudder stations. Even in Bengal non-official graduates in the Local Government Circles will be found only in a few exceptional places in the vicinity of Calcutta. Therefore I beg leave to say that to extend the right of voting to those that have passed the Entrance examination of the Calcutta University would be more suited to the present condition of the country.

In regard to the constitution of the Local Board, I think the property as well as educational qualifications required of electors and candidates are too high. I would reduce them, and, in reference to section 17, I would include among the electors those who pay as road cess in respect of land situated either wholly or in part within such Government Local Circle a sum of not less than Rs. 50, irrespective of their permanent place of residence, and also those who pay a license tax of Rs. 25, and who reside within the Government Local Circle or Municipality town close to it. The principal object of the Bill appears to me to give real power to the members of local committee to manage the local affairs, and to relieve the executive officials from a portion of their work. In regard to section 8, I would only say that those who are qualified to vote should also be qualified to be elected.

In regard to the office of Chairman and Vice-Chairman, my views are the same which I expressed in the last meeting of the Select Committee on the Municipality Bill. In my humble opinion if we leave section 54 as it stands, in many districts Magistrates and Sub-Divisional Officers will be elected as Chairmen, and other officials as Vice-Chairmen of the Local Board, and the object of the Bill will be defeated. There will not be any real local Self-Government. As regards the Vice-Chairman I think it should clearly be provided that he should be always a non-official gentleman; as regards the office of Chairmen there ought to be two classes of Local Boards—A and B. Class A should be composed of those Local Boards which are, in the opinion of the Central Board or the Local Government, sufficiently advanced to elect non-official gentlemen as their Chairmen, and Class B should consist of these Local Boards which may be, in the opinion of the Local Government, comparatively backward and cannot elect non-official gentlemen as their Chairmen. It should be provided that for Class B the Government should appoint the Magistrate or Sub-Divisional officer as Chairman. It would be more befitting the dignified position of a Magistrate that he should be appointed as a Chairman by the Government whose servant he is. The Magistrate has very important work to do, and I do not see what right the Local Boards have to elect him as a Chairman

and compel him to spend a portion of his valuable time in doing their work to the detriment of his legitimate duties. I would give the Government power to transfer Local Boards from one class to another, as may be found necessary from time to time.

The idea of the proposed Central Board is an excellent one, and quite in keeping with the general principles of Local Self-Government. The hard-worked Government officials will be relieved of some portion of their present work. The constitution of the proposed Central Board is all that can be desired. The association of non-official native gentlemen of education and influence with a specially selected officer of the Government, will lead to most beneficial results, and I hope that Behar will not be left unrepresented in the proposed Board. The Board so constituted cannot be regarded in the light of a purely official body, and its interference with or control over the affairs of the Local Boards will be far from that of an official nature. Thus the independent and the non-official characteristic of the entire organization of Local Self-Government from the village Unions to the Central Board will be strictly maintained. The Hon. Member in charge of the Bill in the concluding part of his speech very appropriately made an appeal to the educated men of Bengal. I have no doubt that this appeal will be responded to in the same spirit in which it was made, that educated men throughout the country, being actuated with patriotic feeling, will come forward to accept the powers and responsibilities of the new position assigned to them, and exert their utmost to ensure the success of such an important measure which is calculated to do so much good to their country, and thus justify the privilege which has been accorded to them, and prove themselves to be the worthy sons of their motherland.

Now let us closely and critically examine the proposed organization of Local Self-Government as provided for in the Bill from a practical point of view, and see whether it is complete, and whether it will work well in practice, and ensure the success of the scheme. I am sorry to say that in my humble opinion it will not, and I now proceed to give my reasons for the same. The existing district road cess and public instruction committees have not been assigned their proper and legitimate share in the administration of the Local Self-Government scheme. As a rule the district sudder towns are the centres of intelligence, education, public spirit, commerce, trade, and wealth. In such towns generally the big zemindars and the other well-to-do people of the mofussil reside during a greater portion of the year for the education of their relatives in the Government zillah schools, for medical treatment, for supervising and transacting their legal business and affairs in the several Government offices and courts, and sometimes also for pleasure and amusements. We also generally find Government officials, pleaders and mookhtears, merchants, and traders belonging to the several parts of the district living in such places. It is the district sudder towns which used hitherto to supply a large number of the members to district road cess and public instruction committees. The success of the Local Self-Government scheme will depend in a great measure upon the efficient and adequate agency that we employ to work. Now we find that district road cess and public instruction

committees have been in existence for many years, and the members thereof have received regular training, and have acquired practical experience in the working of the above institutions. The Hon. Member in charge of the Bill has very properly remarked that a guiding principle to be observed is the utilization to the utmost of existing and well established institutions, the construction of our edifice as far as possible with existing materials. Have we utilized the above institutions? No. The Hon. Member has been pleased to remark that, as a rule, they have been failures, but failures in what sense? I freely admit that there was failure so far as there was no real Self-Government, and that the non-official members had no real authority in the working of the committees, but I am bold to say that they had a fair share in the management of the affairs of the committee. On the whole the district committees, according to my experience, have done their work well and in an efficient manner. On the other hand the branch road cess committees have very perfunctorily performed their duties. Some of these committees, though there is no lack of work, do not spend the amount of funds assigned to them, and some who do spend the money do not apply the same judiciously, usefully, and economically.

The branch committees have partially failed, for the simple reason that the services of intelligent and educated men could not be secured to a large extent. Such being my past experience, I fail to see the advisibility of abolishing the district committee, and placing the local committee practically in independent charge of the road operations. The members of the proposed Unions and Local Boards will be, as a general rule, quite inexperienced, and the work will be quite new to them. The Local Boards will not be able therefore to discharge their new onerous duties satisfactorily without fair guidance, judicious instruction, advice, sympathetic help, and quiet control of some supervising local bodies possessing local interest, knowledge, and experience such as the existing district committee. The area of the proposed local government circle will be very small, and the total number of all the Local Boards throughout this vast province will be very large. The area of the proposed Central Board will be very extensive, and its work heavy. Thus it is not to be expected that the Central Board situated at Calcutta, however able and competent its members may be, will be Argus-eyed to watch vigilantly the proceedings of the numerous Local Boards of this vast province. I also fail to see how the Central Board, having no local knowledge and experience, can be expected to exercise efficient control over them, and supervise and check the works which may be initiated by them. Moreover, it is feared that the views of the Local Boards will be contracted and limited to their own small sphere, and all the money entrusted to them will be frittered away in merely local works. In the absence of a District Board, who is to take a comprehensive view of the whole district, and conceive, design and execute large and important works affecting the whole district? The proposed joint committee, I am afraid, will not be equal to this task. I do not approve of the principle of creating a number of joint committees which will be so difficult to work in practice. In my humble opinion such committees cannot efficiently and satisfactorily perform the work

of the present district committees and supply their place. Besides this, another difficulty will be in regard to the strength and cost of the establishment. Each Local Board will be required to maintain a highly paid efficient staff, complete by itself, for engineering, medical, and educational purposes. This will not, as a rule, be sufficient within the limits of a local circle to keep the highly paid superior officers engaged throughout the year. Their services could not be utilized as it is done at present by employing them anywhere in the district. Thus there will be useless and unnecessary multiplication of establishments throughout the district. I, Sir, would utilize the services of the well trained, experienced, intelligent, and educated members of the existing district committees which ought to be continued. I, Sir, advocate the continuance of the District Board not because the Local Board will not satisfy the ambition of those who hanker after high political power—not because the Local Board will not be gratifying to those who will only talk but will not work ; but because, in my opinion, the District Board will prove useful and an efficient connecting link between the Central Boards and the Local Boards, and because without the co-operation and supervision of the educated and intelligent members of the District Boards, I am afraid the scheme cannot successfully and efficiently be worked, at least at the outset. I would place the Local Board under the control and supervision of the District Board. The best and safest rule for the constitution of the District Board, in my humble opinion, would be to have one-third of its members elected by the several Local Boards, one-third elected by the sudder district town, and one-third may be appointed by the Government. The Local Boards may elect their representatives for the District Board either from their own body or from among the persons of their circle residing at the sudder station. We might make some provision as regards qualifications of voters and candidates for the district membership. For the members who would be elected by the district town, in addition to other qualifications, they must have served as a member of the district road cess committee. There ought to be a provision made that the Local Board will be at liberty to pay from its funds the actual *bonâ fide* expenses incurred by its representatives in attending the District Board Committee. The District Board should be in direct charge of the zillah school, sudder charitable dispensary, district roads, which begin within the limit of one local government circle and end in another, and other institutions and properties in which the whole people of the district are commonly interested. It should design and execute large and important works affecting the whole district, and generally control and supervise the several Local Boards subordinate to it. The Local Board being in charge of the sub-divisional roads and institutions, and union committees being in charge of the village roads and institutions, each body would have charge of what it is interested in, and of what it has the local knowledge and capacity to manage.

The District Board will be in a position to set an example and show the way to Local Boards.

Now that the means of communication from the mofussil to sudder stations have so much improved, and as some of the delegates of the Local Board may

be living at the sudder station, and as others travelling from the mofussil will get their travelling expenses, I do not think that there will be much difficulty in securing regular attendance of the delegates of the Local Board at the meeting of the District Board. There cannot be much apprehension of constant and vexatious meddling on the part of the District Board with Local Boards, as the District Board will partly be composed of the delegates from the Local Board, and the interest of both the bodies will be common and identical. It may be said that in the backward districts in which several independent Local Boards cannot be constituted, you may have one Local Board for the whole district, but you cannot have both Local Boards and District Boards.

In reply to such a proposition, I would say that if you have only one Local Board for the whole district, you cannot expect that the delegates of the several Unions will take the trouble of travelling from very long distances to attend the meeting of the Local Board at the sudder station, and take an intelligent part in discussing important subjects and managing large business which affect the whole district and do not directly concern their Unions.

It may be urged that there are sub-divisions, in some districts, which are quite prepared to accept the powers and responsibilities of the Local Boards, independent of the District Board. To meet such cases I would proceed on the model of 165th section of the present Road Cess Act, No. IX of 1880, and provide that the Local Government may declare that any such Local Government Board shall have the full powers of the District Board within its local Government circle, and in that case the powers of the District Board shall cease therein. I would also maintain the present engineering establishment, making only such necessary changes as may be rendered necessary to suit the altered state of things.

In almost all the districts I think we have got one professional engineer in the employ of the District Road Cess Committee, who prepares plans, estimates and designs of large works and generally supervises the construction and repairs of district roads and bridges. Then each Road Cess Branch Committee has got its own overseer or sub-overseer, who receives a moderate amount of pay, and is quite competent to do the petty works of the sub-division. These gentlemen entered the service on the understanding that the posts to which they were appointed were permanent. They have been doing their work satisfactorily, and have acquired local knowledge and experience. Neither the interests of justice, economy, nor efficiency require that these persons should be turned out without any fault of their own and new persons appointed in their places.

To sum up, I fully approve of the liberal and enlightened principles of the Bill, and I have only to suggest that, according to the guiding principle laid down by the Hon. Member in charge of the Bill, we should utilize the existing District Board and Engineering Establishment.

At this stage the President adjourned the debate.

The Council was adjourned to Saturday, the 10th instant.

Saturday, the 10th March 1883.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *Presiding;*
The HON. G. C. PAUL, C. I. E., *Advocate-General;*
The HON. H. L. DAMPIER, C.I.E.;
The HON. H. J. REYNOLDS;
The HON. C. P. L. MACAULAY;
Colonel the HON. S. T. TREVOR, R.E.;
The HON. J. E. CAITHNESS;
The HON. BHUDEB MOOKERJEE, C.I.E.;
The HON. MAHOMED YUSUF;
The HON. HARBUNS SAHAI;
and
The HON. CHUNDER MADHUB GHOSE.

LOCAL SELF-GOVERNMENT.

The debate on the Bill to extend the system of Local Self-Government in Bengal was resumed.

The HON. MR. CAITHNESS said: "In accordance with the wish expressed by you, Sir, when a motion for leave to introduce a Bill for the extension of Local Self-Government in these provinces was made in this Council, that members would be prepared, on the presentation of the Bill, to state their views as to the general principles advocated by Government in the introduction of this important measure, I venture with much diffidence to offer a few remarks upon it.

I can lay no claim to the trained ability and learning, the long familiarity with legislative measures, or the accustomed knowledge of native ways of thought, habits, and predilections, which characterise previous speakers, and it is therefore only on the broad and general principles of the measure as set forth in Government Resolutions, and in the speech of the Hon. Member in charge of the Bill, that I can pretend to form a judgment.

And at this stage the consideration of the measure resolves itself into three main points—(*1st*) What is the object which the Government have in view in the introduction of this Bill? (*2nd*) Is that object one which recommends itself to our understanding and sympathies? and (*3rd*) Is the object in view likely to be gained by the measure under consideration.

On the first point there is neither doubt nor obscurity. The Governor-General in Council declares: "It is not primarily with a view to improvement in administration that this measure is put forward. It is chiefly desirable as an instrument of political and popular education."

The object therefore is to educate the people of Bengal to a closer and livelier interest in their own local affairs, to awaken their dormant energies and intelligence, to induce them to study the first principles of village sanitation and municipal government, and to provide scope for their ambition and talent by extending to them a larger share in the administration of affairs.

With reference to the second point from which I am considering this measure, it appears to me no nobler programme could be set forth than this, which appeals both to our understanding and sympathies; and no higher ambition could be entertained by any Government than the endeavour to elevate and lift up the people under their rule, by exciting in them a desire to learn the true art of self-government, and providing for them a scheme of political and popular education.

The third point on which I venture to express an opinion is: Are the objects in view likely to be gained by the Bill now before the Council? And I am bound to say that, after a careful consideration of the matter, I do not think that the Bill, as it at present stands, is likely to achieve the desired result.

The position appears to be that the large majority of the people are entirely ignorant of the new and important duties which, under this measure, they would be required to initiate and carry out, and I fail to see how, if left to their own devices, they can be expected to master them.

They shewed no inherent aptitude for improvement in municipal administration (at all events up to anything like the modern standard) during the days of the *punchayet* system which, as referred to by my hon. friend who preceded me, extended so widely over the country, and so far back in the past; and there is little reason to suppose that, without trained supervision and guidance, they would be likely to make any greater progress now.

In the best interests of the people, it would surely be desirable to afford them every advantage at the beginning of their task to render the lessons to be learnt as easy as possible, and to secure the ultimate success of the measure, as far as practicable, by placing at their disposal the best directions and assistance the Government can give.

To compare great things with lesser, it would appear to me, from a practical point of view, that if any controller of works or manager of a large concern were to endeavour to educate his people in the business by giving them work to do which they could not accomplish, and leaving them to teach themselves as best they could, his success would be questionable, compared with the result to be achieved by placing the same persons under proper direction and guidance.

The Bill will doubtless receive careful consideration in Committee; it will, therefore, not be necessary for me to refer more particularly to its provisions. I may say, however, that it appears to me to lack something in simplicity. The Union Committee, under the control of the Local Board, hedged about with restrictions, and generally supervised and restrained by the district officers and the distant Central Board, will give our native fellow-subjects a lively idea of a circumlocution office, and effectually teach them an art they are not slow to learn—the art of "how *not* to do it."

There is one other point which I should wish to refer to. It has been pointed out to me that the elective system now sought to be extended is by no means a new institution in Bengal. The system has existed for some time, but the people generally have evinced no desire to avail themselves of its advantages. From section 16 of Act V (B.C.) of 1876, it will be seen from the last

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paragraph that on a petition of one-third of the rate-payers of any district the elective system might be introduced into that district. If many districts had availed themselves of this right, it might be thought the people were becoming interested in the idea of local administration; but, as far as I am aware, few or no petitions of this nature have reached the Government."

The Hon. Bhudeb Mukerji was understood to say he would like to say only a few words on the Bill before the Council. The subject had been very largely discussed, and from different points of view; consequently, he would confine himself to making a few remarks on certain principles of the Bill. It had been said that the Bill was a mistake, because the people of the country were not fit for the responsible work of self-government, and because the measure had originated in a mere sentiment of benevolence. He could not agree with this very broad assertion. He read out paragraph 142 from the report of the Famine Commission, and said that the measure contemplated was inspired as much by sound statesmanship as by the sentiment of benevolence. He looked upon the establishment of Unions and Local Boards as very profitable educating agencies, which would be useful in collecting statistics and supplying various local information. He did not think that any better machinery could have been devised for the purpose. But while he approved of the establishment of Unions and Local Boards, he, with a very wide circle of the intelligent native community and the native Press, regretted the absence altogether of any provision in the Bill for the formation of District Committees. He regretted that the germs of self-government should vanish from where they had first been sown as Road Cess Commitees, District School Committees, &c.

The Hon. Chunder Madhub Ghose said that he did not propose on that occasion to make any detailed observations upon the Bill which had been presented before the Council, for it was proposed to refer the Bill to a Select Committee, and he had no doubt that the Committee would examine the various provisions of the Bill very carefully. After the Select Committee had made their report, he would take the liberty of making such observations as should then appear necessary. He begged, however, leave to make one or two observations on one or two matters. The first was as regards the question raised, whether the system of Local Self-Government should be extended to this country. He was free to admit, after hearing the observations of the learned Advocate-General, that people in certain districts in Bengal were not sufficiently advanced to undertake the task of self-government, but he was not prepared to admit that the people in Bengal generally were so far back in education, progress, and culture that they could not be trusted with the duty of self-government. He believed that before the Government of India passed the Resolution which gave rise to the Bill before them, the subject had been carefully considered by the different Local Governments concerned in the matter. They had received various reports from district officers, and he believed he was not wrong when he said that the majority of these officers, who had experience of the knowledge and habits of the people, were of opinion that a good portion of the people were fitted for the boon. They who lived in the metropolis had not the same opportunities of knowing the habits,

manners, and education of the people in the mofussil, and could not, therefore, speak with any degree of authority on the subject; but those who lived and worked in the mofussil were people whose opinions were entitled to the greatest consideration and respect; and the opinion of several district and sub-divisional officers who had been consulted on the subject was sufficiently indicative that there were various districts in Bengal sufficiently advanced in culture to be entrusted with self-government.

But there was another view which could be taken of the matter, and that was that self-government was not a new introduction in the country, They had in various parts of Bengal municipal boards, school committees, committees for the management of charitable institutions, and so forth; and what he understood to be the object of the Government was the blending together in one of these different local bodies The people had for some time been trained in the science of self-government, and he thought the time had come when larger powers should be entrusted to them. He did not think that the scheme would be a failure, as had been predicted by the learned Advocate-General. There ought to be some time or other when there should be a beginning, and the question was whether the people of Bengal were sufficiently advanced to begin now. In answer to this he begged to say that public feeling was in favour of the Bill, and there ought not to be any objection to the scheme. But then if the measure was to be a success, its success would depend mainly, 1st, on the proper constitution of the Local Boards; 2nd, on the power to be entrusted to them; 3rd, on the proper appointment of a Chairman and Vice-Chairman; 4th, upon the funds which may be left to their disposal, and 5th, upon supervision. Now, it was undoubted that the Bill which had been introduced in Council had these considerations in view; but after studying the Bill with some attention and care, he must say there was one matter in regard to which he, and the educated portion of his countrymen, felt some anxiety; and that was the absence of any provision for the establishment of District Boards. He had heard with great care the arguments advanced to show why District Boards were not required, but he regretted that he could not come to the same conclusion as the Hon. Member in charge of the Bill. It appeared to him that Local Boards would be established, not in the principal towns of the districts, but in sub-divisions, where they would not find men of sufficient education and culture who should be able to undertake without much control the onerous duties which the Bill proposed to confer on them. He had no doubt that the Central Board would be able to supervise the work of local bodies carefully; but the fear was that by reason of the Central Board being located in the metropolis, the people in the interior of the country would not come forward very readily to lay their grievances and complaints before them; but if District Boards were established, they would be in a far better position to deal more intelligently with local affairs which were passing under their eyes, and to give instant remedy, than it would be possible for the Central Board to do. Then there was another aspect of the question, and that was that if they had no District Boards they would be practically excluding a large body of educated people, who would be found in the principal towns of the districts, from taking a share

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in the work of self-government. True it was that there would be Local Boards in the metropolitan sub-divisions, and the educated people residing there would be asked to be members of those Boards, but the field for the operation of their skill and knowledge would be so small as not to attract them. If they did not have District Boards, they could not have the co-operation and sympathy of the very class of people, the training up of whom for the important work of self-government was the special scope and object of the Bill. He hoped that the Select Committee would consider whether it would not be wise to introduce a section in the Bill providing for the establishment of District Committees. Then he observed that the Bill was to extend to all the territories subject to the Lieutenant-Governor of Bengal which were not included within the limits of the town of Calcutta, or within the districts of Singbhoom, the Sonthal Pergunnahs, Chittagong Hill Tracts, or any place or town to which the provisions of the Bengal Municipal Act had been extended. There were other districts which, as he had said, were not yet fit for self-government; and he hoped, as he was sure they would, the Select Committee would give this matter their best consideration.

The Hon. Mr. Dampier said:—"To say that a desire of self-government in the sense of localised management of local affairs is a proper aspiration of a people, the natural outcome of education in the largest sense of the word, is to utter a truism. To say that it is the duty of a Government to give effect to the wishes of its people in this respect, as far as may be compatible with other considerations of good government, is, as an abstract proposition, another truism. Whether any exceptional reasons exist for limiting the full play of these abstract principles in India is not a question which I am called on to discuss in this place. Sir Ashley Eden sounded a note of warning as to dislodging the district officer from the position he now occupies, and this has, no doubt, received the fullest consideration of those who are responsible for maintaining what he called the general frame-work of Government; but the Supreme Government of this country has deliberately accepted the conclusion that no such reasons exist other than those arising from the degree of competency or incompetency of the people for the management of their own local affairs. Any further discussion of this question here would be out of place. It is not only to the governed that the management of their local affairs is an object. It has been said that the burden of administration on the shoulders of the governing body is becoming more and more onerous as civilization and material prosperity progress. The alternatives before us are either to supply to the people an administration which avowedly falls short of the requirements of the country, or to call on the people themselves to relieve us of a portion of the burden which is becoming too heavy for us to bear.

The only reasonable course open to the Government, as has been said by the Government of India, is "to induce the people themselves to undertake, as far as may be, the management of their own affairs, and to develop, or create, if need be, a capacity for self-help in respect of all matters that have not, for Imperial reasons, to be retained in the hands of the representatives of Government."

Such being the object up to which we should work, the important question is by what means it may best be attained in these provinces.

I have no hesitation in following the Government of India, Sir Ashley Eden, and your Honor in rejecting such propositions, as that "the people of this country are themselves entirely indifferent to the principle of self-government; that they take but little interest in public matters; that they prefer to have such affairs managed for them by Government officers; that the apathy and indifference which exists on their part will prove an insuperable obstacle to any attempt to interest them in Local Self-Government; and that this is a sufficient reason for taking no step forward now." As a general description of the popular feeling, this might have been said thirty years ago; but since then the schoolmaster has been abroad. Not only Mr. Croft and his departmental subordinates and the public press, but also the Political schoolmaster, such as the Lieutenant-Governor of Bengal with his legislative measures in his Council, under which the old Ferry Fund Committees have expanded into District Road Committees; and the old Chowkidari Unions into Municipalities; and also with his executive measures which have covered the country—or more accurately—dotted the country with School Committees, Charitable Medical Committees, and so forth, and have familiarised the people with the idea of self-management.

When I say that there is no such general apathy and indifference overspreading the country, I must not be understood to mean that the bulk of the people, even in the most advanced districts, take a genuine interest in the matter. I mean only that many, perhaps most parts of the province, contain a class of men who take a real interest in these matters. There is great danger of the value of the agitation on the subject being overrated. It is an instructive fact brought out in the reports of the Commissioners and Collectors consulted that, however much interest the bulk of the people take in the matter, it does not reach the pitch which induces them to take the trouble to sign the petition for the elective franchise which the Government has suggested.

On the other hand, such a petition has been received from Banka, a very backward sub-division, abutting on a semi-barbarous tract; a petition of this kind is quite worthless except to refer to in a speech as a proof of interest taken, but it is no such proof; it is only a warning against putting faith in such petitions as genuine indications of the popular feeling of the bulk of the people. The interest and agitation are really confined to comparatively small classes. Still it seems to me that the Government of India has well said that, as such education as I have mentioned advances, "there is rapidly growing up all over the country an intelligent class of men," whom it is not only bad policy, but sheer waste of power, to fail to utilise.

It cannot of course be denied that there are parts of these provinces which can still only be described as apathetic and indifferent to these matters; and were this a fair description of the state of the province generally, I should join the Advocate-General in protesting against such legislation as is proposed; but I believe that different parts of the province have arrived at different

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stages of preparation to receive such a measure; advanced qualification shades off into utter incapacity. As I read the despatches, the Governor-General in Council has imposed no obligation on the Government of Bengal to go further than can safely be done in transferring the virtual responsibilities of self-government to non-official bodies; and the obvious means of meeting the requirements is by a general scheme so broadly laid down that the application of it may be capable of as much graduation as the qualifications of the different bodies to which it shall be applied are graduated. It was said in paragraph 10 of the Resolution of the Government of India, of the 18th May last, that the Local Governments will also maintain and extend throughout the country a network of Local Boards; but this was only to be done "where intelligent non-official agency could be found." The Government of India seemed to have contemplated legislation which shall give the Local Government the widest powers for going as far as can safely be done; but after giving an unmistakeable expression of their own forward views, to have desired that a wide discretion be left to the Local Government in the application of the principles to their respective charges.

The result is that the responsibility of not going further than could be properly done under the circumstances of each case is shifted to the shoulders of the Local Government; with the Local Government it must rest to prevent any such mistakes as over-estimates of so-called expressions of popular feeling, or of that independence and moral courage on the part of those who would probably constitute the Local Boards. With the Local Government it must rest to give full weight to such disqualifying considerations in each case, as local class jealousies, difficulties arising from the relative proportions of Hindoos and Mahomedans, and so on. And I think that the Local Government would not be able to avoid the responsibility for a mistake made in this direction, by pointing to the expression of general opinions by a superior authority which had not the same opportunities of arriving at a knowledge of such local details.

In this view I shall support the motion to refer the Bill to a Committee; but must express my hope that the Committee will see their way to making, and the Council to adopting, some material alterations from the Bill as it now stands.

The adoption as a general rule of the smaller area rather than the district as the unit of Local Self-Government seems a wise measure; and as regards the provisions of the Bill in respect of the election of the members of Union Committees and Local Boards, I am well satisfied, because, as regards Unions, section 10, and as regards Local Boards, sections 16 and 19, do in fact leave complete discretion to the controlling authority in each case. While considering the reservation of such a discretion to be essential, I am quite in favour of gradually extending the elective system. No doubt in some places to which it will be extended under the influence of Brummagen popular petitions, and so forth, it will be the merest sham; but it does not seem to me a very mischievous sham. On the one hand it is a means of diffusing the political education and interest which we

desire to encourage; on the other hand it is not attended with such a danger of mischief as counterbalances this good; and under these conditions I suppose that not even the Advocate-General would object to making use of legislation as an instrument of popular political education.

But as regards the mode in which the Bill deals with the question of Chairmen to Boards, I hope to see its provisions very materially altered in Committee.

I desire here to add mine to the voices which have already been raised in acknowledgment of the earnest thought, the thoroughness, and the ability on the part of its framer which the Bill as laid before the Council evinces. Knowing the author of the piece of work as we do, there is nothing in this to surprise us; and I recognise this measure as affording him another step upwards in that ladder of public estimation on which he already holds a place so high and so well deserved.

Having saluted the hon. gentleman with my foil, I should like to know what has induced him to ask this Council to fetter the discretion which the Supreme Government has, as I think, so wisely desired to leave in the hands of the Lieutenant-Governor of Bengal—I mean as regards the Chairmen of Local Boards.

I will read what the Governor-General in Council has said on the subject.

In the Resolution of 18th May, at paragraph 18, after saying that the Governor-General in Council did not see his way to accepting the principle that the district officer shall be *ex-officio* Chairman in the case of *Municipal* Committees (thus showing that even in the case of municipalities the question was one deserving consideration), it is said: "Further consideration has led the Governor-General in Council to the belief that on the whole it is better to lay down no such general rule in the case of any class of Local Boards."

The following are the views of the Governor-General in Council on the subject:—

"The Governor-General in Council therefore would wish to see non-official persons acting, wherever practicable, as Chairmen of the Local Boards. There may, however, be places where it would be impossible to get any suitable non-official Chairman, and there may be districts where the chief executive officer must for the present retain these duties in his own hands. But His Excellency in Council trusts that the Local Governments will have recourse sparingly to the appointment of executive officers as Chairmen of Local Boards; and he is of opinion that it should be a general rule that, when such an officer is Chairman of any Local Board, he shall not in that capacity have a vote in its proceedings. This arrangement will, to some extent, tend to strengthen the independence of the non-official members, and keep the official Chairman, where there must be such, apart from the possible contentions of opposing parties."

and then ten days later, addressing himself specially to the Government of Bengal, the Secretary to the Government of India wrote:—

"It will not, moreover, be overlooked by the Government of Bengal that the suggestions made by the Government of India on the subject of election and non-official Chairmen have more direct reference to Town or Municipal Boards than to the District and Rural Boards."

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Why, Sir, this last passage is a distinct caution to the Government of Bengal against any idea that the Governor-General in Council wishes to go too far in this direction.

In the Government of Bengal's letter of 5th July 1882, I find that the Lieutenant-Governor still recognizes this question of official or non-official Chairmen as one to be decided as regards individual localities.

These being the views of the Supreme and Local Governments as expressed in the papers which have been laid before this Council, I hope, Sir, that I am justified in assuming that the following uncompromising section of the Bill presented to us is the outcome of the cogitations of the Hon Mover of the Bill himself, and not the embodiment of any deliberately adopted opinion of the head of the Local Government.

"Every Local Board *shall* at a meeting elect its Chairman and Vice-Chairman." No exception made, no discretion left. The line is sharply drawn. If the inhabitants of any locality can be deemed capable of discharging the full functions of Local Boards under the Bill, unassisted from the first by a professional guide and co-operation, then that locality is to be admitted to the full functions, independence, and powers of Local Self-Government; but for any locality of which it cannot, by any stretch of the official conscience, be said that the inhabitants are fit to be safely trusted with such functions and powers, the penalty is absolute exclusion from participation in the benefits of this Bill.

For them no "sedulous fostering of the small beginnings of independent political life;" for them no "tentative and patent procedure in the introduction of the new policy;" for them no "progressive period of leading-strings till they can walk without support." "*Aut Cæsar aut nullus.*" For those, the full blaze of municipal glory; for these a continuation of Cimmerian darkness and political nonentity.

"There is no reason why most of the Local Boards should not elect their own Chairmen" is the enunciation of the views of the Government of Bengal speaking through Mr. Secretary Macaulay on the 5th of July last. "Each Board will be allowed to elect its Chairman, subject to confirmation by Government," is the short but pregnant announcement of the policy of this Bill in the statement of objects and reasons laid before the Council on the 20th February. Perhaps the Hon. Mover will explain what has led to this very marked change of policy. I do not think that he can point to the reports of the local officers consulted as bridging over the chasm between the two positions.

I would fain hope that the explanation is to be found in the fact that, while he has been absorbed in this great subject, my hon. friend has naturally enough warmed to it, and that his earnestness in it has to some extent clouded the clearness of his view; that he has been carried away by the influences which are recognized in the proverb "There is nothing like leather."

I hope, Sir, that this may be the true explanation, and that your Honor's mind is as yet not made up in this direction.

However that may be, Sir, I ask you, and I ask the Members of the Select Committee, to hesitate before you adopt a step which I must call so ruinous to the working of the proposed measure, which is so calculated on the one hand to increase the number of failures and to intensify the inevitable dangers of mal-administration which we admit must necessarily be accepted to some extent for the sake of giving the desired training and political education; so mischievous on the other, as leading to the exclusion of the less advanced communities from any such training; so calculated to warp the judgment of the Government and its representatives, who will naturally stretch their consciences to the utmost before they condemn any given community to exclusion from all participation in the benefits of this measure on the ground of being found wanting in fitness; and therefore so likely to bring discredit on this great measure by multiplying instances of failures. Even if it be admitted that the inhabitants of some or many or most localities may in spite of the absence of a "Demos" be in such a state of advancement that they may without undue danger to those whom they will represent be trusted to exercise the powers and functions of the Bill without the assistance of an official Chairman, can it be contended that there will be no debateable ground between such communities and the most backward and half savage communities who are not even fit to begin their education in these matters? Why refuse to those who occupy this debateable ground the assistance of a professional expert to guide them on their way?

It seems to me that there will be found communities containing members who have all the natural intelligence and who would very soon acquire the natural interest which is required for such self-management, but who are absolutely ignorant of the first elements of such business; absolutely ignorant at any rate of those branches of public business of which the management is being now for the first time handed over to local management. I think that such men, instead of fretting at the overshadowing influence of the official Chairman, would genuinely desire his help, his guidance, and his support. I think that at the stage of advancement of which I am speaking, the titles of Members, and Vice-Chairmen and Rai Bahadoors, the summons to attend the meetings for deliberation and all such paraphernalia, would be real attractions and sources of gratification, and not (as at a more advanced stage) provocatives of dissatisfaction at the little real power which is attached to them. May not the Government official legitimately make use of such influences to draw the people into the education which is so desirable? Why not act in this matter as you would if you wished to teach a trade to a number of men, however generally intelligent and anxious to learn, especially a trade which is attended with some danger to themselves, and with important effects to others? For such a purpose, is it not the obvious course to give the learners the help of a professional foreman until one of themselves is eligible for the post?

Is it not the case that, with an official Chairman subject to official responsibilities and control, certain local Committees might be employed in much more than could, with a due regard to the public and local interests,

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be left in their hands without such a responsible and professional Chairman? If this be admitted, I venture to say that I have established my case.

I have directed my arguments only to the case of the less advanced communities, because my object is only to insist on the importance of the Legislature not withholding from the Executive Government the exercise of a discretion which the Governor-General in Council considered, which your Honor considered at any rate in July last, to be essential to the success of this wide measure. It is easy, it is pleasant, to move forward with "advanced liberality" in such matters; but I believe that this is a case in which it may be said with peculiar truth that the most effective advance is that which leaves no regret for any step which has been taken; a step forward will be easy at any time; but for any false step hastily taken there remains nothing but regret. There is practically no possibility of correcting a mistake by retrogression to a so-called "less liberal policy."

Eleven months ago Sir Ashley Eden said that it was an indispensable condition that the Magistrate should be Chairman of the Local Boards.

A month later the Governor-General in Council recognized the possible necessity of official Chairmen in some places. Two months later your Honor recognized also that "there may be sub-divisions where it would be preferable to maintain the local executive officer as Chairman of the Board in order to avoid a certainty of failure." Within six months of that the Hon. Mover of the Bill would have us absolutely exclude the Executive Government from the exercise of its discretion in appointing an official Chairman, but his Bill leaves it open to the members of any Local Board to elect the Magistrate of the district or any other official as their Chairman.

But a rolling stone cannot be so easily stopped; within another fortnight the Hon. Member from Shahabad is asking us actually to put it out of the power of some of the Local Boards to elect an official as their Chairman.

This complete revolution of opinion within eleven months!—But the descent to some places has been proverbially easy from the days of the Latin poet.

As regards the question of official Chairman for Local Boards of advanced districts, I must make one or two remarks, although they are not essential to my contention that a free discretion should be left to the Government.

In the first place, I must say that the portion of the utterances of the Government of India, which least commends itself to my judgment, is that which is contained in the last part of paragraph 18 of the Resolution of 18th May of last year. I think that a great deal too much has been made of the argument that the presence of the Magistrate of the district as Chairman of Committees is an obstacle to effective training of non-official members, and would prevent non-official members from taking any real interest in the business. No doubt there are individual Magistrates who allow their views to be narrowed by the surroundings of the moment, and who, without taking much pains to study the questions involved, would probably describe themselves as not being believers in all those new-fangled notions. The influence of such men has no doubt been baneful to the progress and

popularity of ideas of Local Self-Government in the district. But credit must be taken *per contra* for the good done by another stamp of men, the real thinkers, who take broader and more statesmanlike views. I have in my mind men who have been in real sympathy with the people of their districts in these matters; and of whom all connected with them, European and Native, would bear genuine testimony that the only effect of the exercise of their direct power and influence as Chairmen of the Committees has been to foster the interest taken in public affairs by the non-officials with whom they were associated, and to raise their position by a sense of the value put upon their services, and of the confidence imposed in them.

However I must now, in fairness, call the attention of Hon. Members to one of the arguments against allowing the active intervention of the chief executive officer of the district, which the Hon. Mover has, in his capacity of Secretary to Government, set before the Commissioners. He wrote, in connection with the objections to allowing such intervention—

"In Calcutta, the Chairman is Commissioner of Police, but he has no other executive authority. Two-thirds of the Commissioners are elected, and the practical interest which, as a body, they now display in the administration of the affairs of the town is beginning to have excellent results."

That, then, is the model up to which we are to work. To arouse a practical interest in the affairs of the Local Government Circles is one of our avowed objects, and it is patent to all that this object has been thoroughly attained in Calcutta.

As for the rest, we have the assurance of so high an authority as the Secretary to the Government that this practical interest is beginning in Calcutta at any rate to have results which are "excellent."

I will revert for a moment to the reference which I have made above to an opinion expressed by the Hon. Hurbans Sahai. I have the advantage of knowing his views more fully than they were expressed in his speech, because we discussed the same question in the Select Committee on the Municipalities Bill. The Hon. Member is of opinion that the members of advanced Local Committees should not be allowed the option of electing the Magistrate to be their Chairman, because he assures us that to leave such a discretion to them will at once have the effect of destroying all independence of the local bodies. It will be enough for the Magistrate, he says, to let it be known that he wishes to be elected Chairman; it will be enough for any one whom it may suit to set about a rumour that the Magistrate wishes to be elected Chairman. The certain result will be his election: no one will dare to vote for any other candidate.

I ask you, Sir, I ask the Members of this Council in all earnestness, are we playing at a game, or are we dealing seriously with matters affecting the interests, the welfare, the life of human beings? As long as any body of men, however advanced they may be, are admitted to be so wanting in moral courage that they dare not vote for any other person than the Magistrate whom they do not wish to have as their Chairman, will any person in this Council, or out of it, seriously argue that that body is fit

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to be entrusted with the independent control of matters affecting the interests and welfare of the inhabitants of the local government area which they are supposed to represent? Are not other influences, still less desirable than that of the Magistrate, likely to be brought to bear upon the Members of the Boards, before which their independence and power of resistance may fail? For instance, in some local government areas the influence of a local magnate will be all-pervading and all-powerful. Questions are likely to arise in which the interests of such a magnate as an owner of property are in conflict with the sanitary or other interests of the humbler inhabitants. Could such a body, as the Hon. Member (Hurbans Sahai) supposes, be trusted to act independently, and to be proper guardians of the communal interests in such a case? Would it not rather be highly desirable that the Magistrate's influence should be there to counteract such other influences. I hope that the Hon. Member's estimate as to the number of local bodies, at any rate of advanced local bodies, to whom his apprehensions will be applicable, is unduly high.

Whether it be so or not, I hope that the Select Committee and the Council will repudiate the position proposed to them by the Hon. Member, that the members of any Local Board can be so weak that they cannot be trusted with power to elect the Magistrate as their Chairman, and yet so independent and so deserving of public confidence that they can be trusted with large commercial interests and powers.

I turn now to the question of control to be exercised over the Local Boards. After considering all that the Hon. Mover has said in support of the scheme of no authoritative control being exercised except by the Central Board, I regret that I cannot bring myself to think that so distant a controlling power could ever use authority sufficiently well-informed as to local circumstances, sufficiently prompt in action, and sufficiently effective, to afford a reasonable protection against the mistakes of inexperience and of inefficiency, which are fully anticipated. A guarantee of such protection against avoidable mistakes the humbler inhabitants of these rural communes have a right to demand from the Government of the country before they are handed over as subjects of these experiments in administration by the intellectual or influential leaders of their community. No doubt they are so handed over for their own ultimate good, but for the present their interests are avowedly to some extent sacrificed. Those who suffer will not be those who make the mistakes.

The degree of supervision required will obviously depend largely on the course which may be adopted as regards official and non-official Chairmen; but the country is too large for the exercise from one distant centre of the sustained close supervision, and the occasional prompt action of intervention, which it seems to me will be essential to give the scheme as it now stands a fair chance of success to minimize the evils which are accepted as unavoidable, while they are more than counterbalanced by other advantages. One considerable objection to which the proposed scheme seems to me to be open is that it imposes on the local officers the burden of responsibility without giving them corresponding power. They are to keep a close watch on the proceedings of these inexperienced Local Boards; they are to be Argus-eyed, ready to give their advice for what is

right and to remonstrate against what is wrong, but they must not act. Except under very exceptional circumstances, they can only report the Local Boards to their distant superiors. Now it is evident that, when this great project is floated, it will be almost a political object to avoid finding fault with the Local Boards or attributing failure to them. The consequence is obvious to all officials. Whether the local representative of Government has wounded the susceptibilities of the Local Board by obtruding his advice too freely, or whether his own sensibility has shrunk from taking up a position of open opposition to them, when the failure comes under review, some one from above will be "constrained to say that if Mr. Magistrate scapegoat had exercised his legitimate influence more judiciously, these unsatisfactory results might have been avoided." It is so easy to write in this strain from a Calcutta bureau, when one is safely removed from mofussil anxieties and difficulties, and when one's sympathies with mofussil officers has grown cold.

It is no satisfaction to me, Sir, to make these remarks. I know too well the difficulties of construction and the cheapness and ease of mere destructive criticism; but notwithstanding the difficulties which would attend such an arrangement, I must express my conviction that the immediate control should not be removed further at any rate than the head-quarters of the Commissioners of Divisions.

Then whatever is done in Calcutta should be done by the Government itself. If the answer be that it is impossible to throw the additional burden on a Government of which the whole responsibility rests on the shoulders of a Lieutenant-Governor who stands alone and who is already so overweighted as the Lieutenant-Governor of Bengal, I should be inclined to suggest another way out of this frequently recurring difficulty, than by creating subordinate central authorities to discharge functions which avowedly would be better discharged by the Government itself; but this again is approaching a subject which is out of place here."

The Hon. Mr. Macaulay said:—"I think, Sir, that no one who has listened to the debate which is drawing to a close can fail to congratulate the Council and the Select Committee on the postponement which has led to this full and instructive discussion. To myself personally, the debate has been particularly gratifying, and I must acknowledge the many appreciative remarks which have been made regarding my share in this measure. I particularly value the compliment paid to me by the respected Father of the Bengal Civil Service, and my sense of that compliment is not diminished by the fact that my Hon. friend has made several inaccuracies in other respects in the course of his speech. I naturally cling to the hope that in the estimate of my humble self he may have exercised something of that wisdom and precision for which he is so distinguished. At the same time I cannot accept these flattering testimonies without saying that I have been credited with a very unduly large share in whatever credit may attach to the conception and execution of this Bill.

I do not propose to make any attempt to answer in detail the various criticisms which have been offered on the several provisions of the Bill. To

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do so would be to protract the debate to an unreasonable length, for I should have to repeat the greater part of two orations which I have already inflicted upon the Council. As I have trespassed very largely upon the indulgence of the Council in connection with this subject, it is right I should spare them any discussion upon details which can be considered in Select Committee. There is, however, one class of criticism to which I must endeavour to reply. I refer to criticism which condemns the policy of Local Self-Government upon general grounds, while deliberately ignoring the provisions of the Bill which is before the Council. Such criticism is, to my mind, unfair in the course of a debate upon a particular measure. Now when the Hon. Advocate-General began his address by saying that "the present measure" was, in his opinion, a mistake, I was prepared for some valuable criticism on the Bill, for advice and counsel regarding its provisions, or its short comings, which no one can be better qualified to offer than the Hon. gentleman. But what followed? Not a word regarding the provisions of the Bill, not a reference to a single one of its provisions. It turned out that what the Hon. gentleman designates as "the present measure" was not the Bill before the Council, nor anything like it, but an expression of the general views of the Government of India upon the very broadest features of a policy to be observed for the whole of Her Majesty's dominions in India. It is true that the Hon. gentleman himself admitted that his observations, being directed to questions of principle, might have been more opportunately made at an earlier stage. But I do not regret that he should have taken this opportunity of urging his views on the general question of Local Self-Government. His views will always be received with respect in this Council. But I regret, and I consider I am entitled to complain, that he should have formed and expressed his views regarding self-government in Bengal upon a general expression of opinion regarding the whole of India, without seeing whether that expression of opinion was intended to have, or must have, or could have, special application to Bengal, and that he should ignore the particular measure which had been placed in his hands, when that measure had been framed with a view to suit the particular circumstances of Bengal; when that measure was the only measure before the Council; and when, in framing that measure, an attempt had been made, to the best of our ability, to guard against the very dangers which he apprehends, and to maintain the very efficiency which he applauds. The Hon. gentleman has more than once referred to municipalities. Any remarks and criticisms which he may have to make regarding the Municipal Bill will, I doubt not, be sufficiently answered by my Hon. friend, Mr. Reynolds, at the proper time. But the present Bill has nothing to do with municipalities. The Hon. gentleman proceeded to say that it is proposed "to transfer some of the most important powers, duties and obligations of Government to a class of people who are not fitted to exercise them." But he does not specify those powers and duties and responsibilities. If he considers that it is intended that the Government should divest itself absolutely of any of its duties or responsibilities, he is mistaken. But what are these duties, responsibilities and powers which it is proposed to transfer "to a class of

people who are not fitted to exercise them"? Does he refer to roads? Local bodies already have the control over roads. Does he refer to schools? Local bodies have already large powers in respect of schools, and have had larger powers; and I appeal to the Hon. Member opposite (Babu Bhudeb Mukerji), whose experience in this respect is not surpassed even in the distinguished service to which he belongs, to say whether it is not a fact that throughout the country the villagers do take a most keen and lively interest in their primary schools. Does he refer to dispensaries? These are already in charge of special committees. Does he refer to the maintenance of village drains and tanks in a state consistent with the interests of the public health? If he does, it will be well to remind him that this is not a power which is now to be surrendered, but a power which does not exist, and that this is not a duty which may be performed with less efficiency than hitherto, but a duty which has hitherto not been performed at all, and which can only be performed by the agency to which we propose to assign it. Does he refer to census taking; to famine relief? If so, it may be well to remind him that the late census was taken, to a large extent, through unpaid agency, and that it is not probable that that agency will be less efficient, because it is organized. He will also probably admit that Government will be able to administer relief measures with greater efficiency if, in addition to its own staff, it has a net-work of local bodies bound to assist it. Upon what, then, does the Hon. gentleman base the indictment that the scheme is "speculative" and, "under present circumstances, sure to be a failure."? Is it upon the system of Union Committees? That system simply seeks to extend and to give legal status to a system under which many of our best and most experienced officers have provided for the execution of village works through the most important villagers. Is it upon the system of Local Boards? The Local Boards will simply possess the powers of District Committees extended. They will have more manageable areas to deal with. They will have duties and responsibilities to perform which are now either neglected, or scattered over a variety of bodies, or performed with difficulty and in haste by hardworked officers of Government. They will be amenable to local responsibility, provided with a local executive, actuated by local interest and guided by local knowledge, which are now generally wanting. Is it upon the system of control? I apprehend that this must be the point where my Hon. and learned friend sees a blot, for the imaginary measure which he attacks is evidently some measure in which there would be no provision, or at least an insufficient provision, for control. His apprehensions on this point appear to be shared by my Hon. friend, Mr. Caithness, who has spoken of the Boards being "left to their own devices." If, however, these gentlemen will turn to Part VI of the Bill, they will find that provision has been made for a very complete and thorough system of control. It is quite true that we look to this measure as a valuable instrument of political education, and that we do not look for perfect efficiency at once and in every case. It is quite true that we recognize that work may, at first, be neglected, or be badly done. After all, the interests affected will be those of the people them-

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selves. But we provide for a rectification of this, and we guard against its constant repetition. But what institution or system is there that does not admit of the execution, and the faulty execution, of work in the process of education? No one is in a better position than the Advocate-General to say whether mistakes are not committed, and hardships caused, by inexperienced judicial officers. Would he allow these officers to try no cases at all? Or would he not rather provide for the correction of their errors? This latter is precisely the system we propose to follow, with the important addition that, if those responsible make mistakes, they will make mistakes, not regarding other peoples' business, but regarding their own business. In any case we shall provide for the rectification of those mistakes, just as the Hon. gentleman has often assisted an appellate court in rectifying the mistakes of some subordinate court. But, as my Hon. friend, Babu Chunder Madhub Ghose, has pointed out, the Hon. gentleman's objections would apply to the beginning of Local Self-Government as well as to any extension of it. In every other department, apparently, he would allow experience to be gradually acquired. It is only in the matter of Local Self-Government that he insists on experience being intuitive. I can assure the Hon. gentleman that we have no more idea of going into a backward district and looking for a ready-made elective Board with full powers, than the Hon. and learned gentleman has of going into the Bar Library to select the ready-made Colonel of his imaginary regiment or the ready-made Engineer of his imaginary bridge. What we propose is to give powers gradually as we see that they can be properly exercised, and to bring out gradually, but to the fullest extent, the practical knowledge and interest of the people in the management of their own affairs. The scheme claims to be eminently a practical one, and, as such, sound as an educational one. It provides for gradual extension, for expansion as efficiency is attained, and for thorough and careful, though not exacting, supervision. As I have said before, I do not regret that the Hon. gentleman should have taken this opportunity of expressing his views on the general policy of Local Self-Government. What I regret is, that he should have formed and expressed his views without reference to the measure before the Council. I can only look forward to the pleasure of discussing the Bill with him in Select Committee. I proposed to take that opportunity of inducing him to examine the Bill, and of obtaining the assistance of his great ability, experience, and learning in correcting its defects. And I hope, and believe, that when the Bill is again presented to the Council, I shall have the pleasure of seeing him stand forward as its most powerful supporter."

His Honor the President said: "I can scarcely allow this opportunity to pass without some remarks of my own with especial reference to the speeches which have been addressed to the Council in the course of the debate. I am glad we have arrived at a stage in our legislative proceedings which gives some hope of a practical solution of the measure with which we have to deal. And though I very much regret that the hope I once entertained that we might be able to pass the Bill during this session cannot be realised, I think all are agreed that the time which has been spent on it, and

the further time that will be required for its fullest consideration in all its details, is not lost in deferring the final action on a measure which affects so widely this large province of Bengal. But there is another advantage in the delay. Since the first promulgation of the scheme suggested by the Government of India, the question has undergone very long and detailed criticism both at the hands of the official and non-official classes. It is still undergoing that process of sifting in the speeches we have heard in the course of this debate, and I am glad to know that the process will be continued by its reference to a Select Committee, who would have to consider the Bill, section by section, before presenting it to the Council for the purpose of its being passed into law. Now, regarding the delay which has taken place, it is to my mind one of its great advantages that I think we come to the consideration of the question in a much more sober and a more rational spirit as to the requirements of the case than we had when the measure was first brought to our notice. The time which has elapsed has destroyed a great many illusions and has led to the abandonment of a great many political aspirations. There used to be some talk in the first enthusiasm that there was going to be a general kind of district management made over to local bodies, and I have heard it said that the Magistrates were to be excluded entirely from any connection with district affairs; and even some aspiring souls anticipated that provincial independence in local administration would be conceded shortly. I think all these far-reaching ideas have now subsided into very much more moderate dimensions. It has been rightly observed by some one that the keynote to the policy of the Bengal Government in this matter is localisation; that is, that we hope to enlist in the cause of social and administrative reform with which we have to deal local knowledge and local interest for the local management of every part of each district. And my own conviction is that this gives us not only a better hope of advantage in the relief of overburdened district officers in the discharge of their duties, but also greater probability of success in the education of the people, in the administration of their own small affairs as regards their village schools, their village roads, their pounds and ferries, and similar institutions. Then as to the question of any Central Committee directing as a District Committee the whole business of district works. It is on this point of the establishment of District Committees that I know we are at issue with a great many people who have a right to be heard on the question. I do not question that there is something to be admitted in favour of District Committees; they already exist, and have been in existence for some time, though, I think, it begins to be admitted that generally they are failures. But an opinion prevails in many minds that, with enlarged powers and greater independence from the control of the Magistrate, District Committees, constituted on a more popular basis, supervising and directing the entire affairs of the district, would establish Local Self-Government in the best form in which we could establish it. Now it may be interesting, and certainly it is instructive, if we look back at this question and see the course it has run, at least as regards the official correspondence on the subject. It is a little more than a year ago that the first note was

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struck by the Government of India, of which I then had the honour to be a member, which gave an impulse to the interest which has since prevailed regarding the introduction of the system of Local Self-Government in India. It originated, as you are aware, in a wider extension of the decentralisation scheme; and in communicating their views the Government of India expressed the opinion that, in the interests of the practical development of the extension of the scheme of Lord Mayo's Government, the Provincial Governments might well, in their turn, make over to local bodies a good portion of the work of local administration, and that these bodies might be partly composed of non-official members, subject only to such control as may be reserved to it by the Legislature. That shows the kind of idea which first existed. The first intimation of the general system to be adopted was in the direction of the establishment of District Committees under the direct control of the Magistrate of the district and of the Sub-Divisional Officers. In the letter of the 10th October 1881, which was the first intimation of the thing, it was said by the Government of India with reference to District Committees:—

"With reference to District Committees, I am desired to state that His Excellency in Council is disposed *primâ facie* to consider the most desirable and effective policy to be that of concentrating all the local administration, other than that embraced by municipalities, in the hands of one committee for each district, having ancillary subordinate sub-committees for each tehsil or sub-division (as the case may be). Of the former, the Magistrate and Collector would be President; of the latter the Assistant or Deputy in charge of the sub-division would be Chairman, and in each case the local body should comprise persons not in the service of Government, and elected or nominated, as may seem best, in a proportion not less than from one-half to two-thirds. In districts where more than one committee now exists for different objects, the possibility of their amalgamation should be considered; where no such committees have yet been formed, their constitution is evidently desirable."

So you see the first suggestion of the Government of India was that there should be a District Committee and Branch Committees, to be presided over directly by the Magistrate of the district or the Sub-Divisional Officer. Sir Ashley Eden, who was then Lieutenant-Governor of Bengal, consulted the officials throughout the province on these proposals. The outcome of his inquiries was communicated to the Government of India in his letter of 8th April 1882, just three weeks before he made over charge of the administration to myself. He said:—

"The committees constituted under the Cess Act should be carefully reviewed and strengthened, inactive members being eliminated, and members added who will consent to take a genuine interest in the administration of the district affairs.

* * * * *

"If any practical result is to be obtained from the extension of Local Self-Government, it is essential that the unit of administration should be the *Local* or Sub-divisional Board, and not the *District* Board. The District Board should have the general control of the scheme of the district work; it should have the allotment of funds, and it should direct the policy of the district as a whole. But the details of Local Self-Government can only be performed by working local bodies with limited areas of jurisdiction. Where these cannot be formed, as much use as possible must be made of District Committees."

Here you see accepted the theory of District Boards, positively presided over by the District Magistrate, and Sub-Divisional Boards presided

over by the Sub-Divisional Officer. Then came, to show the growth of the idea of Local Self-Government, the Resolution of the Government of India of 18th May 1882, which is a very large development of the original plan; and it not only shows the extensive growth of the idea, but how the Government of India themselves eventually abandoned the notion of a District Board as the right form of constitution for Local Self-Government. It is only necessary to read a short paragraph of the Resolution to establish this:—

"The Government of India desires then that, while maintaining and extending, as far as practicable, the plan of Municipal Government in the cities and towns of each province, the Local Governments will also maintain and extend, throughout the country, in every district where intelligent non-official agency can be found, a net-work of Local Boards to be charged with definite duties and entrusted with definite funds. The Governor-General in Council considers it very important that the area of jurisdiction allotted to each Board should in no case be too large. If the plan is to succeed at all, it will be necessary to secure among the members both local interest and local knowledge. Experience proves that District Committees are, as a rule, very badly attended by members not actually residing in the vicinity of the head-quarters' station. Those who do attend have frequently no intimate acquaintance with the wants of outlying parts of the district. The consequence is, either that undue attention is given to the requirements of the immediate neighbourhood of the central station, or that the business falls entirely into the hands of the district officer, this committee contenting itself with formally endorsing his proposals. Modifying, therefore, to some extent the suggestions made in paragraph 8 of the Circular letters of the 10th October last, the Governor-General in Council desires that the smallest administrative unit—the sub-division, the taluka, or the tahsil—shall ordinarily form the maximum area to be placed under a Local Board."

And again, in the supplementary letter addressed directly to the Government of Bengal, in reply to Sir Ashley Eden, it was said:

"It does not seem to be necessary to maintain the overruling power of the District Board in any of the purposes mentioned in your letter * * *. It would seem that the Sub-Divisional Boards might very well be left free of the control of a District Board, arranging all matters of common interest by sending delegates to a District Council."

Now you see that the Government of India had, as an intimation of its views rather than an order, said that District Boards should not form part of the constitution of a Local Self-Government scheme. Of course I am aware that if the Local Government had very seriously pressed a view contrary to that which the Viceroy had suggested—if the Local Government had asserted its own wish to establish District Boards for the direction of district affairs,—the Viceroy, in the readiness with which he has always been prepared to accept the views of Local Governments as regards the form which the scheme should take as long as the principle of the scheme was accepted, I have little doubt would have been quite willing to accede to our wishes. It unfortunately happened that I myself quite concurred with the theory that the proper working of the scheme was not to be found in the establishment of District Committees managing district affairs, but that there was much more chance of giving a good administrative education to the people, and less risk of failure, if we worked up from the bottom to the top. I have received a letter by a recent mail from England from a gentleman of high authority, and if I were to mention his name you would recognise that he is one who has a right to speak on a question connected with India with very great authority. He told me that he had seen

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the telegraph summary in the *Times* giving the general outlines of the scheme as proposed in Mr. Macaulay's speech, and this is what he wrote about it:—

"I am much pleased with the telegraphic summary sent home of your proposed plan of Local Self-Government. So far as I can judge, it seems just what was wanted. I was afraid from what I first heard that it too much pointed to putting power into the hands of a limited class of educated natives, and telling them to try their prentice hands on large plans. Whereas I believe the right course is to begin at the lowest grade of communal institutions, and to work up to higher things by granting the smaller ones for certain purposes under representative institutions. I very much doubt whether the natives can rightly govern Calcutta, but I believe they may govern their own villages at once."

Now I am not going to say anything about the Calcutta Municipality, because, in the first place, the system of municipal administration in Calcutta is at present on its trial; but I do most clearly say that I emphatically protest against the establishment of any system for the general administration of our districts, which would correspond at all to that obtaining in Calcutta. My objections are made on several grounds. Clearly it would be opposed to the principle on which our Bill has been framed, which is to begin from the lower and rise to the higher. Then if you look at the general run of our sudder stations, who are the men you call the educated men? They are composed of members of the Bar and gentlemen who are connected with the educational work of the station; in some of your large cities there are local merchants, and in other cases there are some leading tradesmen who take an interest in the town and in its surroundings. But the pleaders, to take them first, are not always men of the district. They are gentlemen who come from Calcutta and other places to earn a living by their profession; they have no family or other connections with the district, and they have no more personal interest in the place than they would have in any other in which they were only temporarily resident. Similarly, gentlemen who are in the Education Department. They are for the most part sent there by the Government. They have no personal concerns in the district, and they may be in one district to-day and in another to-morrow. For local interests beyond those which come under their immediate notice, or any wide knowledge of local wants, I believe they have little or none. Merchants in the town or tradesmen have no experience or acquaintance with anything beyond their place of business, and certainly not with the conduct of such affairs as our Local Boards will have to deal with. Now to compose District Committees of such materials would be to court failure. On account of the difficulties of communication, those who are really concerned and have a real interest in the district would very rarely be able to attend and give expression to their views in District Committees, and a committee composed of such elements would neither be a help to the Magistrate, nor of any advantage to the people. I am afraid they would be a talking and a talkative body, and would not do any good work, and that matters would lapse very much into that kind of confusion which comes from entrusting powers to persons who, even if educated, have no interest in the duties which they have to carry out, and no means of carrying them out; and I think that all the objections which the Hon. the Advocate-General

has taken to the general scheme would have strong force if we contemplated anything in the direction of the management of district affairs by District Committees merely constituted at head-quarters. If such a thing was resolved upon, I should go back to the position that the Magistrate must be at the head of affairs, because I do not believe that a committee constituted chiefly of people at the sudder station, and connected with no permanent and personal interests in the district, can ever really conduct to any satisfactory issue work of the nature involved in the administration of the district. There would also be the tendency that committees so established would talk a great deal about many other things than those which we consigned to them, and it would get to be a kind of an institution where they would criticize and discuss everything which belonged to their district, calling into question the action of Magistrates, and claiming to be a kind of representative body with a right to investigate how all the affairs of the district were to be administered. Now all this is far from my thoughts, and nothing which any gentlemen could say would induce me to accept such a theory of Local Self-Government. There is another objection as regards the constitution of the District Committee. We have, under our present plan, divided the district into Union Committees and Local Boards, and at the sudder stations we should have to find first a Municipal Committee to administer the affairs of the town; and a great many of those educated gentlemen who had been referred to would clearly be the best men to undertake the work within municipal limits. But, then, you would require at the same place a committee to manage the business of the Local Board at the sudder sub-division, and this second committee at head-quarters would necessarily be composed of many of the same gentlemen who are connected with the Municipal Committee. Now you wish to have the District Committee in the same place. I don't know who you are to get to form a third committee, because I give up the idea of distant zemindars coming into the sudder station to take part in work which would require continuous attention. Take, for instance, the Nuddea district, and see how it would be possible for district affairs to be managed from Kishnaghur by committees comprising residents in Kushtea, Santipore or Bongong. That is all I wish to say on the subject of District Committees. The basis we wish to work upon has a much less ambitious aim. We would give over the petty affairs of villages and unions to minor and local bodies, who have local knowledge and local interests, and we propose that they should be supervised by the Local Boards to which they will be subordinate.

Then it has been recognized that some kind of control is necessary, and you come to the question of a Central Board. The idea is not an original one. It comes from English Procedure and Acts. But, admitting the necessity of some form of control, if you do not approve the Central Board idea, you find that you must either have the local personal interference of some one on the spot, or you must have Government interference from a distance. My reason, briefly, why I adopted the principle of a Central Board, was that the work which it will entail upon the Government in dealing with some 66 to 68 millions of people, in gradually establishing Local Boards, several of them with large

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areas, in laying down bye-laws, rules, and directions, and in disposing of an immense mass of minute details, would at least require a large addition to our Secretariat arrangements to relieve the Government of a great burden; and that some intermediate agency was necessary to help us. I felt at the same time that in the strong plea that had been put forward by the people for freedom from constant and direct interference, it was right to give it a fair trial, and the best way for the Government to do that was to be as little connected with it as possible. We are quite agreed that the Magistrate should be invested with certain powers to see that things do not go wrong, that completed works should not be allowed to go into disrepair; that works newly undertaken were not carried out badly; and that the Magistrate should have the right and the authority to suppress whatever was dangerous to the peace, safety, or health of the community. My belief is that in most cases the influence of the Magistrate over the Local Boards would be such as to lead committees to pay attention to his representations. There must be some power to make them do what was right, and to make them undo what was wrong. If it is not to be the Magistrate on the spot, I confess I should like to see the Government relieved from the duty of interference; and it is in this view that I have proposed the constitution of a Central Board, which, though acting in communication with the Government, would consist of independent men who would be able to settle differences of that kind which may come up between the Magistrate and the Local Boards. Whether the proposal will be sanctioned or not, I cannot tell, but as far as I am concerned, it seems to be the best solution. As regards the objection taken to the magnitude of the work as beyond the power of any Board sitting in Calcutta, I think it would be a quite reasonable objection if it was expected that the whole scheme of Local Self-Government was to be introduced and established through Local Boards within a month after the introduction of the Act. But that, I think, is not likely to take place. Progress in the organization of Local Unions and Local Boards will be very gradual. While I have always maintained that we can introduce and adopt a system of Municipal Government in towns and cities on a wider basis within a year of the passing of the Municipalities Bill, I have as consistently urged that I do not believe that the introduction of Local Self-Government in the interior of districts can be fairly established throughout these provinces in less than ten or twelve years. It must be a matter of slow growth; it must be a matter of very experimental introduction. There are districts where we may introduce it at once, and there are others which we must leave alone for the present. To give the new system any chance of success, I believe that it must gradually grow up as in the case of municipalities, from very small beginnings to larger proportions. To show exactly the view I take, I will read to you a portion of a letter which I wrote to the Government of India in July last, and said:—

"When we approach the discussion of the constitution of Local Boards, the difficulties of the problem are manifestly greater; and these difficulties arise primarily from the fact that, in this direction at least, the experiment of Local Self-Government, based upon election, is entirely an innovation, foreign alike to the genius and instincts of the people and to the

system of rule which has obtained since the British power was established in India. The Government on this side of India has no past experience to fall back upon for its guidance, nor probably could it find in any of the independent Native States in the country precedents of a kind to help it in such a novel undertaking. The Lieutenant-Governor is anxious, nevertheless, to give to the views expressed by His Excellency the Viceroy in Council the fullest and the fairest trial; and, though he has no fears as to the results of the measure, and no doubts as to its ultimate success, he is bound from his position to give the warning that, if any solid and permanent results are to be achieved, it can only be by a tentative and patient procedure in the introduction of the new policy. We are dealing with untried men in an untried system."

Well, I may be wrong; but I do not think any one who knows the country can suppose that the time I have mentioned is too short for the establishment of Self-Government, on a basis such as that which is contemplated, throughout the country. But with these safeguards, I have no hesitation in trying to give practical effect to a scheme which is intended for the good of the people, and in the knowledge which we possess from our intercourse with them of their capabilities and fitness for the work. I certainly deprecate the political timidity which the learned Advocate-General's speech expresses. I believe that there are in many places a class of people who are really and earnestly interested in the promotion of the welfare of their own villages and their own affairs, and if they managed their own small affairs well, larger powers may gradually be given to them. On these outlines I have no apprehension of the results of the legislation now under discussion.

My Hon. friend Mr. Macaulay has just reminded me that the Hon. Mr. Dampier had made an appeal to the Government regarding the advisability of allowing all Local Boards to elect their own Chairmen and Vice-Chairmen. That, I may say, has been done advisedly. There were before the Government one of three courses: first, that the Magistrate should be absolutely excluded from being appointed or elected; secondly, that the Government should nominate an official, which would entirely do away with the independence which His Excellency the Viceroy desired to see established; or, thirdly, that the right of election should be conceded. I confess I was actuated a good deal by the response which has been received to inquiries made on the subject whilst I was on tour, and that was the almost universal representation made to me that what they wanted was the power of election; but how that will work it is impossible to say. The people are not unanimous, even in the most advanced districts like Burdwan, to accept the exclusion of the Magistrate; and it is certainly wise to have trained men in places where there would be Local Boards; but still it would be difficult for the Government to say, "You must have a Government official." Of the three courses I think it wisest to leave it free, subject to the confirmation of the Government, except in such places where it is clearly shown that there are no persons fit to be placed at the head of local affairs. My belief is that generally they will elect a Government official to be the Chairman, by reason of the distrust of their own powers to deal with a system of Local Self-Government, and in that view I have left the Bill in the terms in which it stands. If the

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Select Committee has reason to qualify that freedom of action, I shall be quite willing to defer to the opinion of the majority of the Council."

The motion to refer the Bill to a Select Committee was then carried, and the following members were appointed on the Committee. The Hon. the Advocate-General, the Hon. Mr. Reynolds, the Hon. Mr. Allen. Col. the Hon. S. T. Trevor, the Hon. Bhudeb Mookerjee, the Hon. Mahomed Yusuf, the Hon. Hurbuns Sahai, and the Mover.

The Council was adjourned to Saturday the 17th March.

Saturday, the 17th March 1883.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *Presiding;*
The HON. G. C. PAUL, C.I.E., *Advocate-General;*
The HON. H. L. DAMPIER, C.I.E.;
The HON. H. J. REYNOLDS;
The HON. C. P. L. MACAULAY;
Colonel the HON. S. T. TREVOR, R.E.;
The HON. T. T. ALLEN;
The HON. BHUDEB MOOKERJEE, C.I.E.;
The HON. J. E. CAITHNESS;
The HON. MAHOMED YUSUF;
The HON. HARBUNS SAHAI;
and
The HON. CHUNDER MADHUB GHOSE.

JUTE-WAREHOUSES AND FIRE-BRIGADES.

THE HON. MR. REYNOLDS moved that the report of the Select Committee on the Bill to amend the law relating to Jute-Warehouses and Fire-Brigades be taken into consideration in order to the settlement of the clauses of the Bill; and in doing so he said that the report of the Select Committee went so fully, and he hoped so clearly, into the different points in which it was thought desirable to modify the original draft of the Bill, that it would not be necessary for him to detain the Council at any great length with the remarks which he was about to offer. Indeed, he believed there were only two matters to which he need refer outside the four corners of the Select Committee's report, and upon these he desired to offer a few remarks. The first of these was the communication from the Suburban Municipal Commissioners which was not received in time to be taken into consideration by the Select Committee. The communication was printed as No. 3 of the papers circulated to the Council, and he would ask hon. members to refer to it. The first objection they took was to what they called "the principle which underlies the Bill of taking away the initiative power of fixing the rates of license fees from the Commissioners and vesting it in Government."

He did not understand that objection. The Bill, as it came before the Suburban Commissioners, was the Bill as it was originally drafted, and before the Select Committee had amended it, and in this point it simply reproduced the existing law of 1879 according to which the fee for jute licenses had to be fixed by Government after consulting the Municipal Commissioners, and that was now the law in force in the Suburban Municipality. There was no proposal to take away any power from the Commissioners and confer it on the Government. He should have again to refer to this subject; but he only wished to say now that the objection which had been taken was unfounded.

The next was, he imagined, the objection to which they attached most importance, the objection taken by them to the proposal to set apart 20 per cent. of the license fees to cover the expenses of management and superintendence. The Suburban Commissioners declared this amount insufficient, and urged that they ought to have one-third. The question had been carefully considered by the Select Committee, and they were of opinion that an allowance of 20 per cent. would be ample for the purpose, and in coming to that conclusion they had been assisted by certain figures laid before them by the Chairman of the Calcutta Corporation with regard to the expenditure incurred in Calcutta in this respect. It appeared from those figures that in Calcutta in 1880 the establishment cost Rs. 3,992, whereas the 20 per cent. allowance would have amounted to Rs. 5,700. In 1881 the expenditure was Rs. 3,483, and 20 per cent. would have amounted to Rs. 4,540. In 1882 the expenditure was Rs. 3,830, and 20 per cent. would have given Rs. 4,680. These figures made it clear that 20 per cent. would give a larger sum to Calcutta than it was at present found necessary to expend; and that the Corporation had been able to limit its expenditure to about 16 per cent. of its receipts, and the Committee saw no reason why the Commissioners in the Suburbs should not do the same. The Suburban Commissioners observed that at present they expended 25 per cent. of the collections for the purposes of management. That was true; but how did they make that out, for out of a collection of about Rs. 16,000 in 1881-82, the amount they expended was Rs. 3,488. They made it out first by charging the actual cost of establishment, viz. Rs. 1,884; and then the Commissioners in a perfectly arbitrary manner made a charge of 10 per cent. on the actual collections (Rs. 1,604), and set it down as a charge for executive control. That was a purely arbitrary charge, and if they liked to reduce the 10 per cent. to 5 per cent. they will find that the total charge would not exceed 20 per cent., while all actual expenditure would be provided for. The Committee therefore thought there was no necessity for making any alteration as regarded the allowance of 20 per cent.

Then the Suburban Commissioners said they considered the arrangement which would place the control of the fire-brigade in the hands of the Commissioner of Police very objectionable, but they did not suggest any other arrangement, and he thought that the Council would feel that the Commissioner of Police was the most appropriate and natural authority in whom should devolve the management of the fire-brigade.

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He need only refer to one other point in connection with this representation from the Suburban Commissioners, and that was the suggestion that insurance offices should be made to contribute, as they did in London and other cities, to the maintenance of the fire-brigade. Such a provision existed in the Act of 1872. It provided that a rate of eight annas for every ten thousand rupees should be levied on the amount of insurance; that policy was deliberately set aside in 1879, and the Select Committee were of opinion that it ought not to be revived. He thought the policy a mistaken one, because the amount so charged was not really paid by the insurance companies, but by the persons who effected insurance by way of enhancement of their premium, and the owners of jute-warehouses would thus have to pay twice over—first, directly in the form of the license fee; and secondly, in the form of higher premium to insurance companies to meet the requirements of the law in this particular instance.

Coming to the report of the Select Committee, he would ask attention to section 5, in which a considerable alteration had been made at the recommendation of Mr. Harrison, to whom the Committee were greatly indebted for the assistance they had derived from his experience in the matter. According to the existing Act of 1879, the amount of the license fee was to be fixed by the Local Government after consulting the Municipal Commissioners at a special meeting. This provision of the law had not been literally carried out, for in point of fact the Government did not fix the fee, but they fixed the scale of fees and left its application to the Commissioners, and the Committee thought that was the proper system to follow, and they had accordingly adopted that principle. They thought the scale of fees ought to be fixed by Government after taking the opinion of the Commissioners, and that the Commissioners should be left to apply that scale according to the circumstances of the particular warehouse to which a license was to be granted.

The next section to which he would invite attention was section 18, and that was the second point to which Mr. Reynolds had referred above, as a matter which was not noticed in the Select Committee's report. It had been suggested to him, since the report had been made, that section 18 might be productive of administrative inconvenience. It provided that the Commissioner of Police should prepare a budget or estimate of the receipts and expenditure of the fire-brigade for the year commencing on the 1st April next ensuing, and that such budget should be laid before the Commissioners in meeting, and forwarded by them to the Local Government. It had been suggested to him that Municipal Commissioners were occasionally somewhat dilatory in their proceedings, and it might be inconvenient if the Local Government had to wait till the Commissioners forwarded the budget, and it was thought that the principle would be sufficiently provided for if the Commissioner of Police sent the budget to the Government and merely forwarded a copy to the Commissioners; but Mr. Reynolds was not prepared to adopt this suggestion. He thought it would not satisfy the reasonable wish of the Municipal Commissioners that they should have an opportunity of examining and criticising the Fire-Brigade budget before its submission to Government,

and he did not think it need be assumed that they would neglect their duties so far as not to send up the budget within a reasonable time. He therefore did not propose any amendment in connection with this matter. By providing that the Commissioner of Police should prepare the budget in or before the month of February, sufficient time was given to the Municipal Commissioners to enable them to send up the budget in time for the Local Government to deal with it.

The alterations in sections 21 and 23 were of no great importance. A suggestion was made in Council when the Bill was introduced that the wording of the Bill, which left the responsibility on the officers of the police and fire-brigade to shew that they had not exceeded what was necessary for the due execution of their duties, might be improved. The Committee had amended the section by providing in section 21 that no officer of the police or of the fire-brigade should be held liable for damages on account of any act done by him in the *bonâ fide* belief that such act was required in the proper execution of his duties. The Commissioner of Police of Calcutta expressed an opinion that some clause of that kind was necessary, and that the wording of the existing law did not sufficiently protect such officers in the execution of their duties; and the Select Committee agreed with him. Then as to section 25. As it formerly stood it provided that the powers conferred on the Commissioner of Police in respect of Calcutta and the Suburbs as to fireworks should be exercised in Howrah by the Chairman of the Commissioners. On this point the Magistrate of Howrah, who was also the Chairman of the Municipality, had represented that, in the event of his absence from head-quarters, he could more conveniently provide for the conduct of the duties referred to in this section in his capacity of Magistrate than in his capacity of Charman. The Select Committee also thought that the duties belonged more properly to the Head of the Police than to the Head of the Municipality, and they had modified the section accordingly.

He wished to call attention to a point in reference to section 27 for the disposal of sums now standing to the credit of the Jute-Warehouse Fund in Calcutta and the Suburbs. The proposals therein contained had not been objected to either by the Calcutta or Suburban Commissioners.

With regard to section 28, the Commissioner of Police for Calcutta wished it to be distinctly stated that any fees leviable under the Petroleum Act were to form part of the fund for the maintenance of the fire-brigade. MR. REYNOLDS believed that the Government had expressed their intention of devoting these fees to that purpose, and it was no doubt a proper mode of applying the money; but it was quite a different thing to declare by legislation that those fees must be appropriated to that purpose. The Committee had therefore added a clause to the section which provided that, in addition to certain proceeds of jute licenses, the fund available for the maintenance of the fire-brigade should consist also of any other funds which the Local Government might grant or appropriate for the purpose.

The HON. MAHOMED YUSUF said:—"When this Bill was last before the Council on the motion to refer it to a Select Committee, I had the honour to draw the attention of the Council to two parts of the Bill. I had firstly ven-

tured to make a suggestion in connection with what was section 27 of the Bill as it was first introduced into the Council. This section corresponds with section 34 of the Bill as it is now before the Council after it has been amended by the Select Committee. I had then called the attention of the Council to the expression "commodity," which occurred in the section in connection with the power of the Local Government to bring under the operation of the Act any other fibre besides jute and cotton, to which the Act in terms applied.

I submitted that the use of an ambiguous word liable to misconstruction should rather be avoided in legislation, and I am glad to find that my humble suggestion has found favour with the Select Committee to which the Bill was referred, and that the expression referred to above has been omitted from the section in question.

The other matter, with which I had troubled the Council on the occasion above mentioned, was in connection with sections 16 and 17 of the original Bill, which are, however, retained in the present Bill as before. These sections of the original Bill, which correspond with the same sections in the Bill now before the Council, laid down rules in what manner the proceeds of the fees and penalties levied under the Act were to be appropriated. It was provided in those sections that twenty per cent. of such fees and penalties shall be applied to meet all expenses incurred by the Municipal Commissioners on account of inspection and other charges in relation to the Jute-Warehouses. It was also provided that "any balance of such twenty per centum which may remain after payment of such expenses shall be credited to the Municipal Fund." So far so good. There is no objection to this. The costs of maintaining the fire-brigade is in the first instance limited to twenty per centum, and thus there is a limit on this side, and provision is also made for cases where a part only of the twenty per centum might be sufficient to meet certain charges, leaving a surplus in the hands of the Municipal Commissioners, which surplus is to go to the Municipal Fund. And this is very satisfactory.

But, then, what are the provisions of the Bill regarding the remaining eighty per centum. Section 17 provides that the same should be made over by the Municipal Commissioners to the Commissioner of Police for the maintenance of the fire-brigade. That is all that is said in the original Bill in respect to the eighty per centum. No provision is made in respect of the balance, if any, left after the defrayal of the cost of maintaining the fire-brigade. I can understand the absence of any such provision when the costs of maintaining the fire-brigade would amount to eighty per centum. The limit of eighty per centum for the costs of maintaining the fire-brigade no doubt means that the Commissioner of Police should keep down such costs, so that they may not exceed the eighty per centum. But what is the Commissioner of Police to do with the surplus, if any, in his hands after meeting the costs of maintaining the fire-brigade out of the eighty per centum. There is no provision for such a case like this. There is no provision in section 17 similar to that contained in the last clause of section 16 providing for the balance to be credited to the Municipal Fund. No doubt the absence

of a provision from the section in question to meet the case of a surplus might be accounted for by the circumstance that it was believed that the whole of the eighty per centum would be exhausted and no surplus was likely to be left in the hands of the Commissioner of Police, and therefore no provision was necessary. And accordingly on the last occasion I was informed by the hon. member in charge of the Bill that the case of a surplus arising out of the eighty per centum was not likely to arise for the next ten years, inasmuch as the eighty per centum was barely sufficient to keep up the fire-brigade in an efficient working order, and that therefore there was no provision in the original Bill to meet the contingency of a surplus.

Now, I submit that although such a contingency might not arise for some time, still it does not follow that the contingency should go entirely unprovided for in the Bill; because, although the contingency is a remote one, still it is one of a nature that is likely to happen, although at some distant date. It may not be necessary hereafter for other purposes to amend the Act before the case of a surplus should arise, and the Act would then require amendment for a matter present to our mind at the present moment.

I therefore thought, when the Bill was referred to the Select Committee, and do still think, that there should be, under section 17, a proviso similar to that under section 16 to meet the case of a surplus.

But it may be that the Select Committee might have provided for the objection taken by me by introducing section 18 in the present Bill, which was absent in the original Bill. The object of this section might have been expressly amongst others to meet my objection, and if it was intended by the Select Committee by this section to provide for the case of a surplus, then I submit that that intention has only been partially carried out, because the section, after providing for the preparation of a budget of the fire-brigade, goes on to say that "if such budget shall shew a surplus of receipts over expenditure, it shall be in the discretion of the Local Government, subject to the provisions of section 5, to reduce the scale of fees; and if it shall shew a deficit, similarly to increase such scale." Now, I submit that this clause, although it may be sufficient to prevent the accumulation of a surplus in the future, does not provide for the disposal of any surplus that might be in hand at any particular time. Not having a retrospective effect, it will only deal with future cases, and the contingency supposed by me will therefore remain unprovided for.

But there is another objection against this particular clause in section 18, in so far as it provides for the constant alteration and variation in rates, which is calculated to introduce a sort of uncertainty as to what one shall have to pay, and this is not at all desirable. It is enough of evil to have to pay, but it is worse evil not to know what to pay.

I therefore think that section 18 does not obviate the necessity of a proviso under section 17 similar to that contained in section 16, and I therefore suggest and submit that the following words might be added after section 17 as it stands at present, viz.—"Any balance of such eighty per centum, which may remain after the application of the eighty per centum to the maintenance

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of the fire-brigade as aforesaid, shall be credited to the Municipal Funds of Calcutta, the Suburbs, and Howrah in the proportion according to which they should have contributed."

I do not propose this addition by way of an amendment, because this is not the time for moving an amendment; but I have only submitted this by way of a suggestion for the consideration of the Council, leaving it to the option of the learned and hon. mover of the Bill to adopt it or not, as he should think proper.

The only other point to which I should like to draw the attention of the Council is as regards the last clause of what was section 20 in the original Bill, and what is section 31 of the present Bill. The clause in question ran as follows in the original Bill:—

"But nothing in this section shall exempt any officer of the Police or of the fire-brigade from liability to damages on account of any acts done by him without reasonable cause."

The last clause of section 21 in the present Bill runs as follows:—

"No officer of the Police or of the Fire-Brigade shall be held liable to damages on account of any act done by him in the *bonâ fide* belief that such act was required in the proper execution of his duties."

Now there is considerable difference in the effect of the wording of the two respective clauses. If there had been no difference there would have been no change in the language. And speaking for myself, I should much rather retain the original wording than adopt the new one. I am quite aware that the alteration in the present Bill is due to a suggestion made by an hon. member of the Council in the debate on the Bill before it was referred to the Select Committee. But with that suggestion I did not agree, although I could not express my views, being debarred by the rules of the Council from speaking twice upon the same subject.

The provision in the original Bill merely repeated the law as it stood and as it stands at present. That law has been in existence since 1872, and no complaint has ever been made that it has hampered the action of the police in any instance. On the other hand it might well be argued that, owing to the care and caution which the police were obliged to shew in the exercise of their duty by the provision in question, there was no action for damages and no complaint against them; but the change in the wording of the law might result in such complaints; because, as already observed, there is a great deal of difference between the effect of the two provisions. Under the former Bill the onus is on the police to shew that any particular act which might be the subject of complaint was done with reasonable cause. Under the present Bill the onus is on those who impeach the conduct of the police; and I should much rather see the police exercise due and reasonable caution than rush wildly and set themselves to putting out the fire regardless of the consequences of their acts. For these reasons I regret the alteration that has been made, and should like to see the provisions of the original Bill restored."

The Hon. the Advocate-General pointed out, with reference to the remarks which had been made by the hon. member who had just spoken, that the words "*bonâ fide* belief" used in the last clause of section 21 were quite in

accordance with the recent decisions in similar cases. The courts had held that though a man might not have acted reasonably, still he might have acted in the *boná fide* belief that the act which he did was required in the proper execution of his duties. The expression "*boná fide*" was well recognised, and the use of the term in the Bill merely followed the current of recent decisions in analogous cases.

The HON. CHUNDER MADHUB GHOSE said he had one or two observations to make before this Bill was passed into law. Section 13 of the Bill, as it had been amended by the Select Committee, provided that, whenever any of the conditions under which a license was held in respect of any warehouse was broken, the person whose name appeared on the license as the occupier of such warehouse should be liable on conviction to have his license cancelled or to a fine not exceeding Rs 500. If the Council would turn to section 8 they would observe that on a change in the occupation of any warehouse the person entering into occupation of the same was required, within two weeks of so entering into occupation, to give notice in writing to the Commissioners of such change of occupation, and on payment of a fee of two rupees his name would be substituted in such license for the name of the last occupier. Suppose before notice of change of occupation was given any violation of the conditions of the license took place on the part of the purchaser; then, according to the strict wording of section 13, the person whose name appeared on the license, *i.e.* the former owner, and not the purchaser, would be liable to be punished by a fine of Rs. 500. It appeared to BABOO CHUNDER MADHUB GHOSE that that provision might operate as a hardship on the person who had sold his interest in the warehouse and in regard to whose conduct no fault could be found. To obviate this hardship he would suggest that there should be a proviso to the effect that, if the owner of a warehouse gave notice to the Commissioners of the transfer of his interest to another person, that other person, and not the original holder of the license, should be liable to the fine imposed under section 13. And in keeping with this view, he would suggest an amendment in section 8, to the effect that the person whose name appeared on the license as well as the person entering into occupation should, within two weeks, give notice of the change of occupation, thus making both persons bound to give notice. Then, if such notice was given by the original holder of the license, he would not be liable to penalty under section 13.

He would also suggest a similar alteration in section 15, and the effect of these amendments would be that the original license-holder would be bound equally with the person to whom the occupation was transferred to give notice of change of occupation, and if the original holder gave notice in due time, he would no longer be liable to prosecution under section 13. With these alterations in sections 8, 13, and 15 he thought the Bill would work better.

The HON. MR. REYNOLDS said he thought that, as the member in charge of this Bill, he was placed at some little disadvantage by having mines of this kind sprung upon him. The Bill in its present form had been three weeks

before the Council, and if hon. members had objections to particular provisions of it, they might have given notice of their objections on an earlier date, or have formulated them in a shape which would allow him either to accept them, or to take further time to consider them. With regard to the objections taken by the hon. member opposite (MOULVIE MAHOMED YUSUF), MR. REYNOLDS might say that it was deliberately intended that clause 3 of section 18 should meet the point he had raised. It was not intended that the balance of any year should be credited to the Municipal Fund. What was intended was that if the balance of two or three successive years shewed that the fees were being raised at a scale unnecessarily high, or conversely at an insufficient scale, the Government should have the power to reduce the scale or to increase it, as the case might be, so as to make the 80 per cent. about sufficient ordinarily to cover the normal expenditure of the fire-brigade. He must say that he preferred that principle to that which had been suggested by the hon. member of the balance of each year being credited to the Municipal Fund.

Then with regard to section 21, MR. REYNOLDS was not prepared to accept any alteration in the wording of the Bill of the nature which had been suggested. He thought the wording of the amended Bill better than as it stood in the existing law, but he must leave the decision of the question to the Council.

With regard to the objections taken by the hon. member to his right (BABOO CHUNDER MADHUB GHOSE), he would ask the Council to take notice that this was not a new provision. It had been in existence since 1875. The provision was not in the same words in the Act of 1872, but it certainly was in that of 1875, and had been reproduced in 1879 and in the present Bill, and there had never been any practical difficulty in connection with it. The difficulty which had now been suggested was very small and was of a speculative character. He understood it to be objected that by section 13 the person whose name appeared as occupier of a jute-warehouse was liable to penalty in case of any breach of the conditions of the license, whereas under the Bill the person who entered into occupation was to give notice of the change of occupation within two weeks, and his name would then be substituted in the register for the name of the former holder of the warehouse. And the objection was that, if such person failed to comply with the law in that respect, it might perhaps happen that if breach of the conditions of the license occurred before the mutation of names had been made, the person whose name appeared in the license, that was to say the former occupier, would be the person liable to penalty. Section 15, MR. REYNOLDS thought, made it pretty certain that the person entering into occupation would not fail to give notice, because that section made such person liable to a penalty of Rs. 100 if he failed to give notice of the change of occupation. And in the next place, section 13 only provided that the penalty was to be inflicted after conviction before a Magistrate, and MR. REYNOLDS imagined that a person would not be convicted in the case put by the hon. member. He certainly would not like to accept the suggestion which had been made, or anything like it, without consulting the Municipal Commissioners. If it should be considered that any such change in the wording was necessary, he would propose that the Bill should not now be

passed. But he believed that no change was required. Persons who came into possession of licensed jute-warehouses shewed the greatest eagerness to get their names registered at the earliest possible date, and he therefore considered that the objection was of a merely speculative character.

His Honor the President remarked that it was a salient rule in the procedure of the Council that hon. members who had any suggestions to offer should be prepared to formulate them in the shape of definite amendments, which it would be easy to consider and upon which the Council could come to a decision. Objections brought forward in an indefinite way must cause delay, while they could lead to no salutary results.

The motion that the report of the Select Committee be taken into consideration was then put and agreed to, and the clauses of the Bill were considered for settlement in the form recommended by the Select Committee.

The Hon. Madhub Chunder Ghose moved the following amendments in section 8:—

To insert the words "person whose name appears in the license as also" after the word "warehouse" in the second line;

To omit the words "the same" in the third and fourth lines, and to substitute therefor the words "such warehouse;"

And to insert the words "the latter" after the word "and" in the seventh line.

He said he had already explained his views as to the provisions of sections 8, 13, and 15; but having found that the sense of the Council was against him, he had confined his amendment to section 8.

The Hon. Mr. Reynolds said he was not prepared to accept this amendment. It would be observed that by section 9 of the Bill the person entering into occupation of a licensed warehouse, who failed to register his name within the time prescribed by section 8, would be liable to have his license cancelled or suspended, and this would be in addition to the penalty of Rs. 100 to be inflicted on conviction under section 15. The object of the hon. mover of the amendment was to prevent any penalty being inflicted on a person who was perfectly innocent. But the proposed amendment would make the matter worse than it was now for such person, for in that case it would be in the discretion of the Commissioners to suspend or cancel the license, if either of the two persons had not given notice of the change of occupation. It appeared to Mr. Reynolds that as the provisions of the Bill stood there would be no practical difficulty in the matter. Not only had the law existed ever since 1875, but he happened to know from what the Chairman of the Calcutta Municipality had told him that the eagerness to obtain licenses and to prevent their cancelment was very great; that a jute-warehouse was looked upon as a very valuable property, and the parties took very great care to get the transfers registered. He therefore thought that the objections which had been raised to sections 13 and 15 were not very strong, although he must admit that there was some ground for the verbal criticisms to which they had been subjected, and he would on the whole rather leave the sections as they stood, especially when it was known that no practical difficulty or hardship had occurred or was likely to arise.

The HON. MR. MACAULAY said that he would oppose this amendment on two grounds,—on the ground that no amendment was required, and on the ground that the proposed amendment would be ineffectual even for the purpose for which it was designed. To take the second point first. The object of the amendment was to save a person in whose name a license stood from liability to conviction and fine for the misdeeds of the person to whom he had transferred his warehouse, but who had not had his own name substituted in the license. To effect this it was proposed to allow the licensee, as well as the new occupant, to give notice, and to require that the name of the latter should be substituted on payment of a fee by the latter. But the license could not be given till the fee was paid, and so long as the new occupant declined to pay the fee, the notice of the licensee would be ineffectual and he would be technically liable if the new occupant broke the conditions of the license. The amendment, therefore, would leave things just as they were, and the new occupant could not be forced to pay the fee till proceedings could be taken against him under section 15 for not giving notice within two weeks. But in reality there was no necessity for any change at all. These sections had been in force for years, and no case had occurred in which the person who had transferred a warehouse had been prosecuted and fined by a Magistrate for a breach of the conditions of the license by the person to whom it had been transferred, simply because the transfer of names in the license had not been made. There was, therefore, no practical difficulty whatever. The important point to be observed, however, was that there was already ample protection, even under the strict terms of the law, for the transferror of a warehouse. He had only to say to the transferree: "I decline to take any risk; therefore, before I complete the bargain, you must come with me and have your name entered as licensee." It might be said that the transferror might be ignorant of the law. But he could not admit that the Council should legislate for the contingency of people being ignorant of the provisions of a law specially enacted for the regulation of their own special interests. He would, therefore, vote against the amendment, and in favour of the Bill being passed as it stood.

The HON. MAHOMED YUSUF said it appeared to him that there were two views which might be taken of this amendment—namely, whether it was merely intended to correct an oversight in the drafting or whether it amounted to a substantive alteration and improvement in the law. If it was merely intended to correct a verbal error and to supply an accidental mistake, he would support the amendment; but if the object of the amendment was otherwise, and if it was intended to bring about a substantive alteration in the law, then the amendment, in order that it might be supported, must shew the defect in the existing law and how it would be improved by the amendment being carried out.

Now the discussion to which the amendment had led had shewn that the use of the words "person whose name appears in the license" in section 13 was not the result of any slip in the drafting of the Act. Indeed, the section in question followed so close upon section 8, which provided for the substitution of the transferree's name in the license, that the provision in section 13 for the punishment of the person in whose name the license stood could not be said

to be the result of an oversight, although the effect of it would be to punish the person who had transferred the whole of his interest, and who had no further connection with the warehouse. The words appeared to have been deliberately put in, and nothing that had been said shewed that it was not a wise policy that the person in whose name the license stood should be considered responsible until he had secured the necessary change in the license.

It was also to be observed that the insertion of the section in the Bill was merely by way of reproduction of the existing law; and as far as MOULVIE MAHOMED YUSUF was aware no complaint had been made that the law had worked with any degree of hardship. Referring to section 6, he found that the license might either be a permanent one or for a term of years. The transfer might therefore affect a very important interest. The retention of the provision, therefore, while it met cases of colourable transfers, would also be harmless in cases of *bonâ fide* transfers, if the transferrors would only see that the necessary alteration was effected in the license. He would therefore vote against the amendment.

The HON. THE ADVOCATE-GENERAL observed that although the criticism which led to the proposed amendment was justified from a strictly legal point of view, there appeared to be no practical difficulty in the matter; and as the amendment would not remove other difficulties which might possibly arise, he did not think the amendment should be adopted, especially as there appeared to be no necessity for an amendment of the law in the direction proposed.

The amendment was then put and negatived, and the section as it stood in the Bill as amended by the Select Committee was agreed to.

On the motion of the HON. MR. REYNOLDS the Bill was then passed.

The Council was adjourned to Wednesday, the 21st instant.

Wednesday, the 21st March 1883.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *President;*
The HON. H. L. DAMPIER, C.I.E.;
The HON. H. J. REYNOLDS;
The HON. C. P. L. MACAULAY;
COLONEL the HON. S. T. TREVOR, R.E.;
The HON. T. T. ALLEN;
The HON. BHUDEB MOOKERJEE, C.I.E.;
The HON. J. E. GAITHNESS;
The HON. MAHOMED YUSUF;
The HON. HARBUNS SAHAI;
The HON. CHUNDER MADHUB GHOSE.

MUNICIPALITIES IN BENGAL.

THE HON. MR. REYNOLDS presented the preliminary report of the Select Committee on the Bill to amend and consolidate the law relating to Municipalities in Bengal. He said he did not propose on this occasion to invite the Council

to discuss the amendments which were provisionally introduced in this Bill. Those amendments were merely suggested at present, and were not finally adopted, and the members of the Select Committee were not quite in accord in respect to some of them, but they thought an expression of public opinion should be invited on the Bill in the form in which it now stood. He moved that the Bill be republished and referred back to the Select Committee for further consideration and report.

The motion was put and agreed to.

CONTROL OF DANDEEWALLAHS AND PORTERS IN DARJEELING AND KURSEONG.

THE HON. MR. MACAULAY moved that the report of the Select Committee on the Bill for the general control of Coolies in Hill Municipalities be taken into consideration in order to the settlement of the clauses of the Bill. He said that, when he had the honour of laying this Bill before the Council on the last occasion, he drew attention to a memorial which had been received from the British Indian Association, and he said that it would be found that most of the objections urged in that memorial had been met by the Bill as it had been amended by the Select Committee. There were certain other objections in the memorial which he thought need scarcely be seriously considered, and which indeed were probably not intended to be seriously considered. One of these was that the Bill which, as the Council were aware, was restricted to municipal limits, would affect coolies working in tea gardens. Another objection was that the proposal to allow the Magistrate to suspend or withdraw the license of a coolie would subject this poor ignorant man to an ostracism which had not "yet been brought to bear in any civilized community, even against time-expired convicts, murderers, and cut-throats." This objection was not very clearly put, but its general sense might be gathered. Now, in the Calcutta Hackney Carriage Act, there were precisely the same penalties attached to the breach of the conditions of a license by the drivers of hackney carriages and bearers of palankeens, as were here proposed for dandeewallahs and porters. He gathered therefore that these drivers of hackney carriages and bearers of palankeens were in the opinion of the British Indian Association subjected to an ostracism which had not "yet been brought to bear in any civilized community, even against time-expired convicts, murderers and cut-throats." It would appear from this that, in the opinion of the Association, the Darjeeling Municipality was a civilized community, while the Calcutta Municipality was not. No one was better qualified to speak on the subject of Calcutta than the writer of this memorial, his hon'ble friend Rai Kristodas Pal, Bahadoor, who was a Commissioner of the Calcutta Municipality, and MR. MACAULAY had no doubt the inhabitants of the more favoured community would appreciate the compliment coming as it did from such a source. Into the feeling of the hon. gentleman's brother Commissioners, when they were informed of that opinion, MR. MACAULAY would prefer not to enter.

He had already said that most of the valid objections which had been taken in this memorial had been obviated by the provisions of the Bill as

amended by the Select Committee. It was intended that the operation of the law should be restricted to the Municipalities of Darjeeling and Kurseong; that it should be restricted to persons employed in carrying loads and drawing or propelling vehicles; and to persons who were engaged for periods of time less than twenty-four hours. To servants who were engaged for periods exceeding twenty-four hours, it would only apply so far that they would be required to take out licenses, which could only be withdrawn or suspended for certain kinds of misconduct. They would not be liable to any penalties beyond these, and to these only in cases of gross misconduct. No attempt was made to regulate the rates of such service. The object of the Bill was simply to provide that, if people were engaged for the performance of a certain service, there should be some guarantee that that service would be properly discharged. With regard to coolies who were engaged to work for periods not exceeding 24 hours, more stringent regulations were required in the interests of the public and for the credit of the municipality. At the same time it would be observed that the law would fully protect these coolies in the enjoyment of their own rights, provided they themselves observed the regulations which were laid down for them. He thought the Council would agree with him in saying that the Bill had been made as lenient as was compatible with the object for which it had been introduced.

The motion was put and agreed to.

The Hon. Mr. Macaulay also moved that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The motion was put and agreed to.

The Hon. Mahomed Yusuf moved the following amendments in section 1:—To insert the words "men employed as" after "limited to" in line 2; also to substitute the word "men" for "persons" in line 3. He thought this amendment should be accepted by the Council because it did not seem expedient to extend the law to women, although they worked as porters or dandeewallahs, as it was but natural for him to expect that women could be brought more easily under control than men, and there did not seem the same necessity for legislation in respect of them as there was for men.

The Hon. Mr. Macaulay said that those who had experience of Darjeeling had found that women who acted as coolies were quite as difficult to deal with as men, and the effect of the amendment would be to remove from the operation of the Act one-half of the class of people whom this Bill was intended to bring under regulation. He hoped the Hon. Member would withdraw the amendment.

The motion was put and negatived, and the section as it stood in the Bill was passed.

The Hon. Mahomed Yusuf moved that in section 5, line 3, the word "may" be substituted for "shall." In moving this amendment he said:—While submitting this amendment, it is necessary that I should draw the attention of the Council to another amendment which stands in my name, viz. that relating to section 14 of the Bill in which I humbly propose that certain words which occur at the beginning of the section should be omitted: those words are "Any

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coolie who shall work as such without being duly registered and licensed and." Both these amendments are based upon the same principle, and they must stand or fall together. The effect of these amendments would be that section 5 would run as follows:—

"Every coolie personally working for gain within the limits of such municipality *may* take out a license, and shall thereupon be registered by the registering officer, &c."

And section 14 would run as follows:—

"Any coolie who having a license in force shall transfer or lend the same, &c., shall be liable on conviction, &c."

If the sections be thus amended, the result no doubt would be that this Bill will not apply to all the coolies of the kind contemplated by the Bill, but that, at the places where this Bill would operate, there would be two classes of coolies—one registered and the other unregistered. And this is exactly the scope which this Bill should have according to my view of its necessity and urgency at the places where it is intended to have operation. It is not necessary for my present purpose, at the present moment, that I should trouble the Council with any observations about the principle of the Bill generally. But it is necessary for me to submit that, according to the view which I take of the matter, it will be sufficient to have a law for the registration of coolies without making it actually compulsory for the coolies to get themselves registered. We should only give them the option of doing so, leaving it to other causes and inducements that their option should be exercised towards getting themselves registered, so that registration should be their voluntary act. I have on a previous occasion expressed my concurrence with the principle of the Bill, and I desire it to be understood that I still maintain the opinion which I then expressed These amendments, if carried out, will not interfere with the main principle of the Bill, and instead of defeating or nullifying the Act would only place it upon a more solid basis.

Assuming that necessity for legislation exists, how is that necessity to be met? There are three conceivable ways of doing this,—one by actually using force and compelling every person who has worked as a coolie to register himself as such and to work as a coolie: this is impressing the labour of man and objectionable on the ground of slavery, and is altogether out of the question. Another mode of meeting the necessity is to provide that no person should act as a coolie unless he has had himself registered, and this is what the Bill proposes. The third mode is to leave it optional to the coolie to get himself registered or not as he pleases, but at the same time to make provisions so that the coolie should of his own accord get himself registered. This can be done by giving to the registered coolie a rate of remuneration so far superior to that which an unregistered coolie could possibly get that the coolie instead of looking upon registration as a measure of compulsion to which he must have recourse whether he wills it or not would hail it with joy and alacrity, and consider the measure as a boon for himself. These amendments then in reality bear upon the matter covered by section 14 of the Bill, viz. that relating to rates; and the question therefore is that regard being had to what is set out in the Statement of Objects and Reasons which accompanied the Bill when it was

first introduced into the Council, and also regard being had to what the Hon. Mover of the Bill said when introducing the Bill, whether the Bill would offer the necessary relief if these amendments were carried out, or, in other words, whether what I have been suggesting would be, consistent with the avowed objects of the Bill.

Now from the materials placed before the Council, it appears that the measure is needed on account of the 'misconduct and extortionate charges' of the coolies. Some people are of opinion that this does not shew any necessity whatever for the measure; and although I am not one of them, still I cannot help thinking that the necessity for the measure, though absolute and paramount, so far as the character of the coolie is concerned, might not be felt by the employers universally, and that there may be classes of men at the places where this Bill would apply, who might rather chose to put up with the present state of affairs and suffer all the inconveniences which exist under the present system than desire a change which would involve some sacrifice of money. Such classes will be at liberty to avail themselves of the cheaper mode of employing unregistered coolies. They will take the risk of the present inconveniences, while those who are desirous to go any length to secure themselves against misconduct and rapacity must pay for it, and have recourse to registered coolies, whose registration will be a guarantee against misconduct, and whose charges, although they will be comparatively higher, still, being according to a certain rule and a certain standard fixed by law, will be uniform, and therefore not open to the objection of being extortionate; the employers will thus be saved from the present complaint, viz. the misconduct of the coolies and their rapacity and extortionate charges; and the object of the Bill will be accomplished.

The suggestions, therefore, which I have ventured to submit will result in a measure which cannot fail to give general satisfaction. While providing for the necessity and urgency of the occasion for those that feel such necessity and urgency, it will not fail to put coolie labour beyond the reach of the inferior classes of employers who do not care for what, in the case of others, constitutes absolute necessity. Whilst producing a better class of coolies, for such as stand in need of the services of such a class, the measure will be placed beyond cavil, and nobody will be able to say that the result has been achieved at the sacrifice of freedom. Although the inducements will be such that the coolie cannot but register himself, still, being his own voluntary act, the registration could not be objected to as partaking of the degradation of slavery. There will be no infringement of liberty, and no irksome or degrading restraint. The principal objection to Government interference in such matters will then be absent. The measure will then fall under a principle thus set out by a high authority:—

"There is another kind of intervention which is not authoritative. When a Government, instead of issuing a command and enforcing it by penalties, adopts the course so seldom resorted to by Governments, and of which such important use might be made, that of giving advice and promulgating information, or when leaving individuals free to use their own means of pursuing any object of general interest, the Government not meddling with them, but not trusting the object solely to their care, establishes, side by side with their arrangements, an agency of its own for a like purpose. . . . There may be public hospitals without any restriction upon private medical or surgical practice."

The Hon. Mr. Mahomed Yusuf.

If this be done, then the Bill will not offend the good sense of the most fastidious critic, or the most liberal and enlightened supporter of the cause of the weak.

Certain other portions of the Bill would at the same time be deprived of the objections to which they are now open.

There are some sections in the Bill which provide for penalties for certain cases by way of cancellation or revocation of the license and the severity of such penalties involving, as they do, a permanent disability to work and a permanent deprivation of livelihood has given rise to doubts whether it is proper to retain those sections in the Act. Certain amendments standing in my name, and also in those of other hon. members are consequently before the Council in connection with those sections. But if registration is left optional, then the severity of the sentence will exist no longer. If the license is cancelled or revoked, the coolie can still work as an unregistered coolie, and this without any detriment to the employment of coolie labour, inasmuch as employers will know that amongst the unregistered coolies it is likely that there are some who might have been convicted, and if with this knowledge they employ unregistered coolies for smaller wages it is their own look-out, and they must take their chance, and with it the consequences. If the unregistered coolies fail for some reason to get employment, then that failure will only serve to improve the position of the registered coolies and to popularise registration.

In the matter of wages also the working of the Act will be satisfactory. Although there will be a standard for rates, still the matter being open to competition amongst the registered and unregistered coolies, there will be freedom of choice left to both parties.

Whilst, therefore, I generally agree with the Hon. Mover of the Bill as to the necessity for legislation, I submit that, although legislation is justifiable in the form which it takes in the Bill, considering the character of the coolies, still regard being had to other considerations, it would be safe that it should assume the form which I have most humbly ventured to suggest, the same being proportionate to the degree of necessity shown by the Hon. Mover, according to the view which I take of such necessity, and which view I have just had the honour to explain.

The question being put to the vote, the following division was taken:—

Ayes 1.	*Noes* 10.
Hon. Mahomed Yusuf.	Hon. Chunder Madhub Ghose.
	Hon. Harbuns Sahai.
	Hon. Mr. Caithness.
	Hon. Bhudeb Mookerjee.
	Hon. Mr. Allen.
	Col. the Hon. S. T. Trevor.
	Hon. Mr. Macaulay.
	Hon. Mr. Reynolds.
	Hon. Mr. Dampier.
	Hon. the President.

So the motion was negatived, and the section as it stood in the Bill was agreed to.

The Hon. Mahomed Yusuf, on his attention being called by the Hon. Mr. Reynolds to the word "such" in section 9 which served the purpose of his amendment, withdrew the amendment, of which he had given notice, that the following proviso be added to section 9:—"Provided always that no coolie licensed to serve as a porter shall be required to wear his badge when he is not waiting at a depôt or stand in expectation of a job."

The Hon. Harbuns Sahai moved that the following section be substituted for section 10:—

"The Commissioners shall at a meeting, in consultation with chowdhrees or heads of the coolies, determine the rates of hire in respect of all coolies empowered to work by the job or for any period not exceeding 24 hours, and after the said rates have been sanctioned by the Lieutenant-Governor, publish the same in such manner as they think fit. Such rates shall include rates calculated according to distance, as well as rates calculated according to time, and such rates may from time to time be varied in the like manner with the like sanction."

He said that his only object in proposing this amendment was that the coolies should have a voice in the determination of the rates. As the Bill stood, the Municipal Commissioners alone would fix the rates of hire, and they would, without the knowledge and behind the backs of the coolies, fix rates which they would consider fair and proper, and though those rates might be sanctioned by Government, the coolies might have good grounds for objecting to them. What he proposed was that before the rates were fixed by the Commissioners and submitted to Government for sanction, the coolies, or their representatives, should have an opportunity of representing their views, and thus have a voice in the determination of the rates; that was to say, that the rates should be settled in consultation with the coolies. Generally speaking, the Municipal Commissioners would be the representatives of the employers, and would be in a manner one of the parties to the contract, and they might fix rates which might not be satisfactory to the other party. It was to avoid such a contingency that he proposed this amendment.

The Hon. Mr Macaulay remarked that besides the general objection that the Municipal Commissioners might be trusted to act so as to make the law a success and not a failure, there was the further objection that the amendment left out an important part of the section. The Hon. Member did not propose by his amendment to substitute anything for the fixing of the rates of hire to places situated beyond the limits of the municipality, nor for the publication of the rates fixed in the vernacular languages.

The Hon. Harbuns Sahai explained that that was an oversight. He only intended his motion to be in substitution of the first clause of the section.

The Hon. Mr. Macaulay said that the first portion of his remarks still applied. There could be no doubt that the Commissioners would endeavour to fix the charges at such rates as would be satisfactory to both parties.

The Hon. Chunder Madhub Ghose said he agreed in the amendment proposed, and he thought it was an amendment which should recommend itself to the favourable consideration of the Council. He said that the provi-

sions of the law should be made as liberal as possible, due regard being had to the interests of the coolies. The Municipal Commissioners would be the class of persons who would be the employers of labour, and it was not too much to require that the coolies should have a voice in the determination of the rates at which they should be required to work.

The HON. MAHOMED YUSUF said that the rates ought to be fixed in a manner which would show that a proper endeavour was made to do justice to the coolies. It did not naturally follow that the Commissioners would fix rates that would be unjust, but if everybody did his duty legislation would be unnecessary: too great care could not be shewn how the rate of the cooly labour should be fixed: it was apprehended that there would not be that security for justice if the rates were fixed without any endeavour to ascertain the views of the coolies, and to take into consideration the state of market, the rise and fall of prices of food, and generally all those circumstances on which the determination of wages for labour depends.

The HON. MR. REYNOLDS said that, before the amendment was put to the vote, he should like to ask the Hon. Members, who were better acquainted with the circumstances of the case than he was, whether there were in the stations of Darjeeling and Kurseong recognized chowdhrees or heads of coolies who would be competent to speak on behalf of the coolies, and he would also ask what force was intended to be put on the words "in consultation with chowdhrees or heads of the coolies." Were the words used in the same sense as the words "in consultation with the Commissioners" in the Jute-warehouse Licensing Act, which was intended to mean on the recommendation or with the concurrence of the Commissioners? Was it intended that the rates were not to be fixed without their concurrence, or was it the intention only that the opinion of the coolies should be taken?

The HON. HARBUNS SAHAI said he only intended that the views of the coolies should be ascertained before the rates were determined. The report of the Commissioners would be laid before the Lieutenant-Governor, and he would then be in a position to consider any objections which the coolies might have urged to the rates fixed by the Commissioners, and would be better able to decide what rates were fair.

The HON. MR. DAMPIER thought there was considerable force in what the Hon. Mover of the amendment had urged. No doubt it was a mere sentimental objection practically, because ultimately the decision would rest with the Commissioners, who would probably belong to the employer class; but the fact of the other party having a declared right of being taken into consultation would give satisfaction, and would be a guarantee that their views would receive due consideration from the confirming authority, the Lieutenant-Governor, when sanctioning the adoption of the scale of hire.

HIS HONOR THE PRESIDENT said he heartily sympathised with the object of the amendment, though he did not share the Hon. Member's wish to substitute the words he proposed. It seemed ridiculous in one sense that such persons should be called into consultation as to the rates which they were entitled to receive. It was very much the same as if the cabmen in London were to be

called in to say whether one shilling per mile was a fair rate of hire for cabs, or the palankin-bearers in Calcutta were to be consulted as to the rates of fare which they should be allowed to charge. They would certainly have a high idea of their own importance and insist on high rates. The rates of hire which prevailed in such cases were very well known. But something was required to make it clear that these rates should receive the sanction and confirmation of the Lieutenant-Governor before they were adopted. As the section ran, HIS HONOR did not think that was clear. He believed the Hon. Member in charge of the Bill intended to propose amendments that the rates determined by the Commissioners should not have force until they were sanctioned by the Government and published in the Gazette. There would then be the assurance that the rates proposed would be considered by the Government and its officers. If the rates recommended were either too high or too low, in either case the parties interested would have an opportunity to submit their representations to the Government, which was generally on the spot. He thought all difficulty would be removed by some provision of the description he had mentioned, and he would prefer that to the larger amendment that these people should be called into consultation with the Commissioners; even if that was done, he did not think much would be gained by it.

The HON. HARBUNS SAHAI observed that all that he wished was that the persons concerned should have an opportunity to lay their case before the Municipal Commissioners, and then if they were dissatisfied with the rates fixed by the Commissioners, they should have an opportunity of memorializing the Government before those rates were confirmed.

The HON. MR. MACAULAY said he believed there was not the slightest doubt that the representations of the coolies would be considered before the rates were fixed. Under recent orders of the Government of India, whenever a rule of this sort was intended to be brought into force, the proposed rules would not only have to be published in the *Calcutta Gazette*, but in the local newspapers before they were submitted to Government for confirmation; but he was not sure whether the sirdar coolies were in the habit of reading the *Darjeeling News*. He would move that section 10 of the Bill be amended so as to stand as follows:—

"The Commissioners at a meeting, of which at least seven days' notice shall have been given by beat of drum, may make and publish, in such manner as they think fit, an order specifying the rates of hire in respect of all coolies empowered to work by the job, or for any period not exceeding twenty-four hours. Such rates shall include rates calculated according to distance as well as rates calculated according to time, and such rates may from time to time be varied:

Provided that the list of rates calculated according to distance shall include rates in respect of such places situate beyond the limits of the municipality as may from time to time be determined upon by the Commissioners."

The HON. HARBUNS SAHAI then withdrew his motion, and the section as proposed to be amended by MR. MACAULAY was agreed to.

The HON. MAHOMED YUSUF moved the following amendments in section 11, that the word "special" be inserted before "contract" in line 9, and

His Honor the President.

the words "at any other rate" be substituted for "at a lower rate" in line 10. He said that, as the section at present stood, the contract which it recognised might be said to be one-sided, and bound the coolie to a lower rate than that fixed by law, while it did not bind the employer if he agreed to pay a higher rate. The section did not keep in view such cases as the occurrence of fairs and other occasions when there might be an extraordinary demand for labour. The effect of his amendment would be that in ordinary cases the rates fixed by law would obtain, but that there might be special contracts at higher or lower rates of fare.

The HON. HARBUNS SAHAI said his proposal was to omit the proviso altogether. As the section stood, the coolie would be bound by a contract to accept a lower rate, but the employer would not be bound by any contract by which the rate might be enhanced. That, he thought, was unjust. If an employer was allowed, at times when there was no great demand for labour, to contract for the payment of lower rates of fare, the coolie should similarly be allowed, when there was a great demand, to stipulate for a higher rate of payment. If the proviso was allowed to stand, there might be good ground for the statement that an invidious distinction was made by the law between the employer and the employed. He therefore moved that the proviso be omitted from the section.

The HON. MAHOMED YUSUF remarked that his amendment, being more comprehensive than that proposed by the Hon. Mover to his left (the Hon. Harbuns Sahai), he would first propose his own amendment, and in the event of his losing his amendment, he would vote for that of the Hon. Member.

The HON. MR. REYNOLDS said he was not able to see how the proposal to amend the proviso would meet the object in view, for by substituting for the words "at a lower rate" the words "at any other rate," it would not bind the employer to pay any higher rate that might have been agreed upon; there was no object in merely binding the coolie. The object would only be served by binding the employer.

The HON. CHUNDER MADHUB GHOSE said he agreed with the amendment of the Hon. Mahomed Yusuf; he only wished to suggest to him whether he did not intend that both parties should be bound by the contract. He would put a case which would show the necessity for this amendment. Suppose a coolie was very much fatigued after a hard day's labour, and a gentleman urgently required the man's services, and offered to pay him at a higher rate if he would do the work required, and the coolie agreed to do it, being persuaded by the temptation of a good remuneration. Would it be fair that the parties should not be bound by a contract of that kind? Although it might be the intention of the Act that ordinarily the rates fixed should be binding on both parties, yet, if under exceptional circumstances a special agreement was made, such an agreement ought to have full effect. If the proviso was omitted altogether, it might perhaps serve this purpose, but the matter would be left in some ambiguity, and he would therefore suggest that the amendment proposed be made.

The Hon. Mahomed Yusuf explained that his object in moving the amendment was this: there being a table of rates, according to the provisions of the Bill, in the absence of any contract to the contrary, those rates should be understood to have been agreed upon between the parties; but the parties should be left open to stipulate for and agree upon any other rate, different from the rates shown in the table. He certainly meant to bind down both the parties to the "other rate" proposed by him.

The Hon. Mr. Dampier said, as he understood it, under the Bill as it stood a coolie could contract himself out of the Act if he wished to do so, but unless a clause which would be the complement of the present proviso were introduced, the proviso would imply that the employer of a coolie could not do so. Supposing for instance that an employer held out a higher fare as an inducement to the coolies to carry him quickly, was he to be allowed to repudiate the promise as being illegal? As the Bill stood, was it not the case that the employer would not be bound by such a promise? He would suggest the following amendment of the proviso as being better calculated to carry out the intention of the Hon. Mover of the first amendment. "Provided that nothing in the Act contained should prevent any employer or coolie from being bound by any contract into which he may have entered to make or receive payment at any other rate than that fixed by the Act." He desired the same measure for both parties.

The Hon. Mahomed Yusuf said that the amendment in the words suggested by the Hon. Member opposite (the Hon. Mr. Dampier) so clearly and unmistakeably expressed the object he had in view, that he felt himself considerably obliged to him for his suggestion, which he readily adopted in the place of his own amendment in the words originally proposed by him.

Colonel the Hon. S. T. Trevor said he would be prepared to vote for the proviso as it stood in the Bill. When work was slack, and there was much competition, coolies generally offered to accept lower rates, and it should be open to employers to engage coolies who thus offered their services at lower rates, and such an agreement should be binding. It was optional with employers to engage coolies, and it might often happen that an engagement would not have been made except for the lower rate offered. But it was not optional with coolies to accept employment at the legal rates. There was nothing to prevent any employer from paying at higher than the legal rates if he pleased, but no contract to do so should be held to be valid, for if it were the Act would be useless.

The Hon. Mr. Allen thought the effect of the amendment would be simply to render the Act useless.

The Hon. Mr. Macaulay said it appeared to him that there were three courses open to the Council. One was to alter the section as proposed, another to leave the section as it stood, and the other to omit the proviso altogether. The proviso to the section had been taken from an Act of this Council which had been in force for the last nineteen years, and had worked satisfactorily. If the proviso was amended as proposed, the effect would be, as had just been stated, to render the Act useless; and if the proviso was omitted, then a coolie after agreeing to work at a lower rate of hire could refuse to be bound by it.

The proviso as proposed to be amended was then put to the vote and negatived.

The HON. HARBUNS SAHAI's motion to omit the proviso was then put to the vote, and the following division was taken :—

Ayes 5.	*Noes* 6.
Hon. Chunder Madhub Ghose.	Hon. Mr. Caithness.
Hon. Harbuns Sahai.	Hon. Bhudeb Mookerjee.
Hon. Mahomed Yusuf.	Hon. Mr. Allen.
Hon. Mr. Dampier.	Col. the Hon. S. T. Trevor.
Hon. the President.	Hon. Mr. Macaulay.
	Hon. Mr. Reynolds.

So the motion was negatived.

The section was then agreed to as it stood in the Bill.

The HON. HARBUNS SAHAI moved the substitution of the following section for section 12 :—

"Any coolie engaged as a monthly servant, or for some other fixed period of time exceeding twenty-four hours, who shall be proved to the satisfaction of a Magistrate to have deserted from such employment without reasonable cause during the period of his engagement, or to have wrongfully prevented or endeavoured to prevent any other coolie from accepting employment, shall be liable to a penalty not exceeding Rs. 10."

His objection to allow the license of a coolie who was registered as a monthly servant to be withdrawn or suspended by the Chairman of the Commissioners was that that officer could not hold a judicial enquiry, and the offences committed under the section could not be said to be established by legal evidence. He thought the offence committed by the coolie should be established before a Magistrate in a regular judicial proceeding. Another object of his amendment was to omit the offence of "gross misconduct;" the words were undefined and vague, and might be interpreted in different ways by different officers. Anything might be construed into "gross misconduct," and the law might be worked to the great injury of the coolie. The third point in the amendment was that the punishment under this section was too severe, and should be limited to the inflicting of a fine; the total withdrawal of the license might mean starvation to the coolie and his family for the remainder of the year. He proposed that a milder punishment be substituted for the withdrawal or suspension of the license provided by the Bill.

The HON. CHUNDER MADHUB GHOSE said it would not be necessary for him to move the amendments of which he had given notice, if the motion before the Council was carried. The Hon. Member simply proposed a fine of Rs. 10, but he did not say what consequences should ensue if the fine was not paid. BABOO CHUNDER MADHUB GHOSE therefore suggested the addition to the section of the words "or in default of payment of the fine, to the suspension of his license for a period not exceeding one month." He agreed that it was proper that the decision of such cases should rest not with the Chairman of the Commissioners, an executive officer, but with the Magistrate before whom the coolie would have the security of a judicial investigation, and he would be able to prefer an appeal

to the appellate authority of the district, and in special cases to bring up his case even to the High Court.

The HON. MAHOMED YUSUF thought he could not support the amendment in so far as the same proposed to omit the particular clause of the section which makes the coolie liable to punishment in case he has been found guilty of "gross misconduct." The effect of this omission would be to leave unprovided the very thing which it was of the utmost importance that the Bill should provide, viz., the punishment of the coolie for insolence and misconduct. As for the objection of vagueness, to which it was said the word "misconduct" was open, he thought that there would be no serious difficulty on account of that, because most people had a pretty clear and accurate notion of what constituted misconduct in a menial or other like servant in the ordinary modes of private life, and he thought the coolie under the Act would not have to complain of being placed under discipline, unwarrantably severe, if he were required at the pain of certain penalties not to be guilty of "gross misconduct" during the period of his service. If the coolie could be induced to conform himself, in lieu of suitable and adequate remuneration, to a faithful course of conduct, then everybody would be satisfied. Except so far as it related to this matter, he would support the amendment, that is to say, he would support it in so far as the same would make the coolie triable by the Magistrate instead of the Chairman, and substitute a sentence of fine for that of the revocation or suspension of the license.

The HON. MR. MACAULAY would ask the Council to consider the effect, in a case where a fine of Rs. 10 might be imposed, of suspending the coolie's license for one month in default of payment of the fine, when the wages of the coolie for that period amounted to Rs. 9. It would therefore not be to the interest of the coolie to pay the fine, when he could wipe it off by a month's idleness. As the section stood in the Bill, the license could be suspended for one month, or for such longer period that the Magistrate might think fit. The next objection which had been taken was that the Chairman of the Commissioners should not be allowed to adjudicate in such cases, but that the case should be heard by a Magistrate. The Select Committee deliberately made the alteration, because they considered that such a case should not be brought before a Magistrate. It was not a criminal trial; it was in the nature of an executive order. If the license was suspended under this section, there was nothing to prevent the coolie during the time of such suspension to take out a license as a daily labourer, and furthermore, the Chairman being the head of the municipality would be the best judge in a matter which affected municipal administration and the convenience of the public. As to what was "gross misconduct" on the part of a monthly servant, the Chairman would be the proper person to decide. The object was to ensure some sort of guarantee that the services which the coolie engaged to perform should be fairly rendered. It was not intended to harry the coolie or to send him to jail; but at the same time they should not be permitted to desert their work, or use insulting or abusive language, or be guilty of any other act of gross misconduct.

The HON. MR. DAMPIER directed the attention of the Hon. Mover of the Bill to the inequality of the punishment of withdrawal of the license which might result in different cases. Suppose an offence were committed under this section in December, when there would be only one month to run of the license, the maximum punishment which the Chairman could inflict would be withdrawal of the license for one month; but if a similar offence were committed, and the license withdrawn in January, eleven months must elapse before the coolie would get a fresh license, and the withdrawal here would be a very severe punishment. MR. DAMPIER would therefore suggest the substitution for the words "withdrawn or suspended for such period as the Chairman may direct" of the words "suspended for any period not exceeding three months," as mitigating the objection which he had made, although no doubt it could not be altogether removed.

COLONEL THE HON. S. T. TREVOR said he would vote for the section as it stood in the Bill. A great deal had been said about the excessive punishment that would result from the withdrawal of a license. He thought there was no great danger of the punishment operating very harshly. A coolie who might forfeit his license as being unfit to work as a monthly servant could still find employment in the Public Works Department or in the plantations round about. It would not be at all necessary for him to starve.

The HON. MR. MACAULAY regretted he was not able to agree to the motion of the HON. HARBUNS SAHAI. He did not think the coolies would suffer from the want of a definition of "gross misconduct." Everybody had a notion of what gross misconduct was in a coolie, and it was not necessary to apply any other rule of judgment.

The HON. MR. ALLEN said that he proposed to vote for the section as it stood. He entirely dissented from the idea that all relations between employer and labourer could only be settled by judicial enquiries. If there was any one thing which a person should endeavour to avoid in such transactions in this country it was to call for a judicial enquiry. It practically secured to servants impunity for any misconduct, as the master in most cases would not take the trouble of complaining to a Magistrate to be worried by attendance in court, and be browbeaten and cross-examined in giving his evidence, for he would prefer putting up with any amount of misconduct to standing such annoyance. Therefore it practically amounted to this, that, if servants were to continue to act as servants did act until a judicial enquiry convicted them, it practically meant that the most unfit persons should continue to act as servants. The object of the section as it stood was not to punish servants, but to protect innocent visitors to Darjeeling from being afflicted with annoyances from which they at present suffered. The only mode in which the section proposed to secure this aim was that, if a man shewed himself unfit to be a servant by his gross misconduct (his master would certainly dismiss him), no future master should be deceived and taken in by his holding a license as a monthly servant. Therefore it was deliberately intended that the withdrawal or suspension of the license should not be by a judicial enquiry, and that the Chairman of the Commissioners should not be tied down by the Evidence Act,

but would use his common sense as an ordinary man in the ordinary transactions of life on being satisfied that the individual brought before him was guilty of gross misconduct in the discharge of his duty as a servant, without the master being exposed to the annoyance of being browbeaten or subjected to any of the other torments to which a person was liable in the course of a judicial enquiry. It was intended that if the Chairman was satisfied that the man was unfit to act as a servant on account of his gross misconduct, he should withhold the license, and thus protect other visitors to Darjeeling from employing such a man. It was not intended to inflict any penalties upon servants, but simply to secure others from similar annoyances.

His Honor the President said that he would support the section as it stood. If it was a case in which fine and imprisonment were involved, he thought there would be some justification for a judicial enquiry. But the utmost penalty was the withdrawal or suspension of the license under which a coolie worked as a monthly servant. The severity of the punishment would be mitigated by limiting the suspension of the license to three months, and it was also met by the statement that the operation of the Bill was limited to the stations of Darjeeling and Kurseong. If these Lepcha hill coolies, who came into Darjeeling for work, were found guilty of gross misconduct, such as would justify a withdrawal of the license, they could go back to their villages and their cultivation, or they could easily find work outside the municipality. The argument as to the severity of the sentence was no argument against the Bill, as there was no penalty of fine or imprisonment, and he thought that the disposal of a matter of this kind was much better left in the hands of the Chairman of the Commissioners

The Hon. Harbuns Sahai's motion was put to the vote and negatived.

The Hon. Mr. Dampier's amendment was also put to the vote and negatived.

The section as it stood in the Bill was then agreed to.

The Hon. Chunder Madhub Ghose withdrew the amendment of which he had given notice, that in section 13 the words "shall be liable to a fine not exceeding five rupees, or in default of payment to imprisonment not exceeding fifteen days," be substituted for the last paragraph of section 13.

The Hon. Mahomed Yusuf moved that the words "limits of coolie depôts or stands" be substituted for the words "limits of such municipality" in line 6 of section 13. He said that the section as it stood would justify a person in asking a coolie to accept hire, whether he was on a depôt stand or in any other place, even if he was asleep at his house at night; because he could not refuse to accept hire within the limits of the municipality at the rates fixed. The object of the amendment was to make it incumbent on the coolie to accept hire only when he was prepared to do so and was at the depôt stand for the purpose, and not when he was in his own house or at any other place not ready for hire. He thought the words "without reasonable excuse" in the section would not meet the purpose of his amendment, because what might be considered a reasonable excuse by one man might not be so considered by another. Even under the Hackney Carriage Act in Calcutta he did not think a carriage-driver or the plankeen-bearers could be compelled to

accept a fare unless at a regular stand. This Bill therefore should not be so extended as to compel a coolie to accept service except when he was at a stand waiting for work.

The HON. MR. MACAULAY said he thought the wording of the section was sufficient to cover the case of a man who was asleep at night in his own house, and he would therefore oppose the amendment. But he observed that the words "within the limits of such municipality" in this section had been left in by mistake. The object was to enable the Commissioners to fix rates of hire for certain places outside the limits of the municipality as well as within it. Those words should therefore be left out, and if a coolie refused to carry a load to any of the places to which he had referred, he should be equally liable to punishment as in the case of refusal to accept a job within the limits of the municipality. He therefore moved that the words "within the limits of such municipality" be omitted from the section.

The HON. MAHOMED YUSUF's amendment was put to the vote and negatived, and the HON. MR. MACAULAY's amendment was agreed to.

The section as amended was then agreed to.

The HON. MAHOMED YUSUF withdrew the motion of which he had given notice, that the words "any coolie who shall work as such without being duly registered and licensed and" in section 14 be omitted, inasmuch as the same went along with his amendment relating to section 5, which he had lost.

The HON. MR. MACAULAY moved to omit from section 16 the words "under the authority obtained as prescribed by section twenty-three of this Act." The words were by oversight retained from the original draft of the Bill, and had reference to a section which did not now exist.

The motion was carried, and the section as amended was agreed to.

The HON. CHUNDER MADHUB GHOSE moved that the words "without reasonable cause" be inserted after the words "fail" in line 8 of section 19. He thought that if the coolie could satisfy the Magistrate that he was really unable to produce his license, a fine ought not to be imposed; it should be left to the discretion of the Magistrate to decide whether or not reasonable cause was shewn.

The HON. MR. MACAULAY asked if it was necessary to legislate on the assumption that every Magistrate was a Jeffreys. The words in the section were "shall be liable" to fine. No Magistrate would punish a man if he could show that he had lost his license.

HIS HONOR THE PRESIDENT observed that if the introduction of the words proposed would, in the opinion of hon. members, afford any security to the coolie, he had no objection to the amendment; they appeared to him to be harmless.

The motion was then put and the following division was taken:—

Ayes 6.	*Noes* 5.
Hon. Chunder Madhub Ghose.	Hon. Mr. Caithness.
Hon. Harbuns Sahai.	Hon. Mr. Allen.
Hon. Mahomed Yusuf.	Col. the Hon. S. T. Trevor.
Hon. Bhudeb Mookerjee.	Hon. Mr. Macaulay.
Hon. Mr. Dampier.	Hon. Mr. Reynolds.
His Honor the President.	

So the motion was carried and the section as amended was agreed to.

The HON. CHUNDER MADHUB GHOSE moved the omission of section 20. He said that he made this motion with some diffidence. On reading the Bill through, it occurred to him that sufficient penalties were provided in the Act for the infringement or violation by the coolies of its several provisions. From section 12 to section 19 every section provided a penalty for the offences specified therein. But in addition to all those penalties, under section 20 the Magistrate might after conviction order the coolie's license to be revoked, and that penalty might follow not only after a conviction for any offence under this Act, but also after conviction of an offence under any other law in force. Suppose a coolie assaulted another coolie and was punished by a small fine, or was sent to jail for a week, then, under a strict interpretation of section 20, his license would be liable to be revoked or suspended. BABOO CHUNDER MADHUB GHOSE would put it to the Council whether the coolie should be left so far at the mercy of the Magistrate.

The HON. MR. MACAULAY said the hon. member lost sight of the fact that the intention of the law was not to harass the coolie, but to protect other persons from similar annoyances. If a coolie was a rowdy coolie, and was constantly creating a disturbance and giving annoyance, it was desirable that such a coolie should be deprived of his license.

The HON. MAHOMED YUSUF supported the amendment. He had an amendment in the same section, and he agreed with the hon. member that punishments having been provided for specific offences in other sections of the Bill, there was no necessity for a general section authorizing the permanent revocation of a coolie's license after conviction for any of those offences, and the case was stronger when the suspension or revocation of the license might take place after conviction for an offence under some other Act which might not affect the coolie in his capacity as a porter, and might not disqualify him as such at all. He submitted that this section should be omitted, but if that motion was not carried, then he would move to omit the word "whether" in line 4, and in lines 4, 5, 6, and 7 to substitute the words "to suspend the license of such coolie" for "or under any other law in force to revoke the license of such coolie or to suspend the same." The coolies, he had been informed, were notorious for their drinking propensities, and any conviction for being drunk and incapable, although not while in the employment of their calling, might make them forfeit their license, and that would tell with too great hardship on the life of the coolie, who might thereby be reduced to starvation.

The HON. CHUNDER MADHUB GHOSE'S motion to omit section 20 was then put to the vote and negatived.

The HON. MAHOMED YUSUF'S amendment was also put to the vote and negatived.

The section as it stood in the Bill was then agreed to.

The HON. MAHOMED YUSUF moved the following amendments in section 21:—To insert the words "or neglect" after "refuse" in line 1; and the words "immediately after his completing his work or job" after "such

coolie" in line 3. He said that, if some such words were not inserted, the payment of the coolies might be put off to suit the convenience of the employer, as it was well known was done in Calcutta in the case of hackney carriages and palankeens. As long as the coolie was willing to accommodate the employer no harm would result, but the law should provide that payment should be made immediately after the work was done, and that would be done by the amendment he proposed.

The HON. MR. MACAULAY observed that this section was taken from a corresponding section in the Calcutta Act for the regulation of hackney carriages and palankeens which had been found to work extremely well; he did not see that there was any necessity to amend it.

The HON. CHUNDER MADHUB GHOSE remarked that, as reference had been made to the Hackney Carriage Act, he might mention that there was a section in that Act which provided a penalty on the employer for not paying the money due in proper time.

The motion was put to the vote and negatived.

The section as it stood in the Bill was then agreed to.

The HON. MR. MACAULAY moved that the Bill as amended be passed.

The HON. CHUNDER MADHUB GHOSE said that he did not think he should be doing his duty to the Council if he were not to express his sentiments as regards the principle upon which this Bill had been founded. He had proposed certain amendments, but he thought the time had now come when he should express his real sentiments in regard to the Bill itself. When the Bill was first introduced, he had no doubt that the question as to the advisability or otherwise of such a law being passed was fully discussed by the members who then formed the Council, and he thought that the arguments for and against the Bill were fully present in the minds of the hon. members. He did not think, therefore, that he should be justified in trespassing on the valuable time of the Council by any lengthy remarks at that stage of the Bill. He simply asked leave to say that he dissented from the principle on which the measure was founded. His own honest belief was that the Bill was entirely uncalled for, and he would state very shortly the reasons on which his opinion was based, and they were as follows:—1*st*, that the price of labour ought to be left to be regulated by the law of demand and supply, and not by any strict and inviolable rule, and that restrictions like those now sought to be imposed on the freedom of action of the coolies were improper; 2*nd*, that no sufficient grounds had been disclosed or made out why a special law was required for the coolies of Darjeeling and Kurseong when, if he was correctly informed, there was no such law in any other place or hill station in India; 3*rd*, that although it might be perfectly correct that inconvenience was at present felt by employers by reason of the exorbitant demands of the coolies, and so forth, the law, as proposed, when passed, was likely to work with very great hardship upon the coolies; 4*th*, that the coolies of Darjeeling and Kurseong were too ignorant to be able to observe the law now sought to be passed; and *lastly*, that such a law was opposed to the liberal policy of the present Government.

The Hon. Harbuns Sahai said he also begged to vote against the motion. He fully agreed with the arguments and objections which had been adduced by the Hon. Member who preceded him, and he wished only to add that in his opinion the Bill would interfere unduly with the freedom of action of the coolies.

The Hon. Mahomed Yusuf said—When this Bill was last before the Council on the motion of the Hon. Mover to refer the same to a Select Committee, I had the honour to express an opinion in support of the principle of the Bill. No member of the Council, as it was then constituted, being of a different opinion, there was no discussion on the subject at any length. The suggestions which were then made by the members who spoke assumed that the principle of registering the coolies was right, and it was left to the Select Committee to see how that principle was to be carried out, regard being had to the suggestions that were made in Council

Since its first introduction it has been doubted whether the Bill is based on a sound principle. I therefore desire, with the permission of the Council, to explain the reasons which led me to support the principle involved in the Bill.

I venture to think that the principle upon which the Bill is based is a correct one, being analogous to that which is the basis for the registration of palankeens and hackney carriages, for which we have an Act of the Supreme Council, viz. Act XIV of 1879, and also an Act of this Concil, viz. Act V of 1866.

The proceedings of the Imperial Council, when the Act of 1879 was under consideration, do not contain anything of importance which I could with advantage place before the Council; but the proceedings of this Council of 1862 contain the record of a very important debate when the Act repealed by the subsequent Act of 1866 was under consideration. In April 1862 the late Baboo Prosunno Coomar Tagore thus expressed himself on the Bill relating to conveyances and palankeens then before the Council:—

"Baboo Prosunno Coomar Tagore did not wish to oppose the introduction of the Bill, but would offer two or three suggestions for the consideration of the Select Committee who would be entrusted with the revision of the Bill. Section 11 provided that the fares should be fixed by a Government officer, but that was most objectionable in principle. He for one was not disposed to entrust any such power to the executive authorities. By section 15 the owners of registered carriages were compelled to let them out when required to do so by any person, so that they would be obliged to trust to any unknown person under a penalty; whereas, if any person refused to pay an owner, he would be compelled to go before a Magistrate to recover the fare. This was a great hardship, and there ought to be some better provision for the protection of the owners of carriages let out for hire. The theory of political economy was that every man should be left to follow his profession without interference from the Government authorities, and should be allowed to charge whatever he thought proper for his labour, and that the demand regulated the fare. But Government interference for the greatest good of the greatest number sometimes became necessary; and this was one of the cases for interference. He did not see any reason for not including in the Bill the regulation of carts and boats. They were often a source of annoyance and inconvenience to such of the public as required to hire them. There was already an Act for licensing boats and fixing the number of passengers, *and why should not all sorts of boats, whether for the conveyance of goods or passengers, be subject to regulation?*

"The principle was the same. That observation was equally applicable to carts. For instance, the loads to be put upon them should be fixed so as to prevent the cattle by which they were drawn from being ill-used, as was daily the case in this city. *Whilst on this subject, members should not forget the coolies or porters of whom there were so many thousands coming to this city for employment, and who were often tempted to walk away with the property entrusted to them. How often had members heard of a sircar being followed by a coolie with a bag of money on his head, and the sircar, on turning back, perceiving that the coolie had walked off with the bag. In such cases, generally, it is impossible to identify the man to whom the stolen property had been entrusted. Were coolies to be registered and distinguished by badges with numbers on them, runaways would be easily detected.*

"All these were matters connected with the general question of public conveyance and were the subject of legislation elsewhere. They might be properly included in the Bill before the Council for consolidation of laws on similar subjects was the order of the day."

Now Baboo Prosunno Coomar Tagore was a gentleman of high culture and sound education, of whose talents and abilities no one can entertain the slightest doubt. The Privy Council in their judgments have taken occasion to bestow compliments on him, speaking of him as of "that eminent lawyer, the late Baboo Prosunno Coomar Tagore." Of his sound judgment and strong common sense there could therefore be no doubt. His words in the quotation which I have emphasised apply exactly, if not with greater force, to the Bill under the consideration of this Council. It must also be remembered that the Bill under consideration in 1862 related to the registration of hackney carriages and palankeens only; but Baboo Prosunno Coomar Tagore thought it proper that it should have a wider range, and might also include the registration of coolies, and that, be it observed, for the capital of India itself. A presumption therefore arises that the registration of coolies generally, and of those at Darjeeling and Kurseong particularly, is not based on a mistaken or outrageous principle.

But the world is improving with a rapid pace, and a period of more than 20 years has elapsed since Baboo Prosunno Coomar Tagore so expressed himself, and it might be that in the interval more light has been thrown on questions of political economy, and what Baboo Prosunno Coomar Tagore in 1862 supposed to be correct even for Calcutta might now be thought for others better qualified to think to be a mistake even for hill-stations.

I beg leave to say that I agree with Baboo Prosunno Coomar Tagore, and think that any legislative measure, the object of which is the registration of coolies in this part of the country, is justified by principle, being warranted by the urgency of the occasion, *taking into consideration the character of the persons who generally offer themselves for employment as coolies.*

The principal question involved in the case is the extent to which the authoritative intervention of the optional functions of a civilised Government should go, and this question, when applied to the subject under present consideration, resolves itself into two questions—one of law and the other of fact. The question of law is whether the subject-matter of the Bill is one that according to sound principles of legislation, a civilised Government ought to interfere with, or, in other words, whether this is a department of human

affairs to which legislative interference should extend, that is to say, whether this is a matter in regard to which the free agency of individuals is to be controlled to a certain extent by the Legislature. The question of fact is whether, at the places for which the Bill is intended, there is sufficient evidence of such a state of things as to render legislation a matter of absolute necessity.

Now it would be out of place and a presumptuous attempt on my part to enter into the considerations of the questions of law, those questions themselves sufficiently indicating the line of legislation, and the turning point in the case will be the answer to the question of fact. I therefore pass over the questions of law and come to the question whether any necessity exists for the measure, and if so, whether the necessity is of such a character as to call for a legislative enactment.

Now in addition to what was contained in the Statement of Objects and Reasons, the Hon. Mover said as follows when introducing the Bill into the Council:—

"The necessity for legislation immediately arose in Darjeeling. That some enactment was urgently required for the protection of the public was obvious to any one who had had experience of Darjeeling in recent years, and it was probably well known to all whose friends had visited the station, or who had given any attention to the complaints of travellers in the public prints; and it would therefore be unnecessary for him to trespass at any great length on the indulgence of the Council. The rapacity and insolence of the coolies, and particularly the *dandymen*, of Darjeeling, had in fact reached such a point as to form a serious menace to the popularity and prosperity of the only sanitarium in this province. Even permanent residents experienced considerable difficulty in dealing with these men on reasonable terms, but visitors were absolutely at their mercy. The most extortionate rates were charged, and the service rendered in return was performed as a favour rather than as a duty. Expostulation regarding absence from work, idleness or turbulent demeanour only evoked insult, and any attempt to assert the ordinary rights of the employer resulted in the wholesale desertion of the men, who prevented others from taking their place Since the last meeting of the Council he had received a letter on the subject from Lord Ulick Browne, the Commissioner of the Division, than whom no one took a livelier interest in all that concerned the comfort and pleasure of visitors to Darjeeling. Lord Ulick Browne wrote:—"The complaints during last season, and especially of ladies without male relatives, were worse than ever." In fact these men proceeded on the principle that the visitor's necessity was the *dandyman's* opportunity. He had himself witnessed a case in which an invalid, too ill to walk or ride, on the point of starting to take some fresh air, was informed by the *dandymen* that they declined to carry him a few hundred yards unless they were paid double the already extortionate rate paid the day before for the same service. Nor did these men make any invidious distinctions of race. He had been much impressed upon one occasion by seeing a native gentleman, who, though of spare and muscular form, was averse to pedestrian exercise, being carried round the station by five robust *dandymen*. And this was no idle exhibition of state, for the victim had complained bitterly of the various impositions to which he had been subjected. Visitors to Darjeeling declared that it would be a perfect place, but for the rain, the leeches, and the *dandymen*."

It appears to me that what is contained in the above statement is quite sufficient to make out such necessity as would justify the Bill upon sound and civilized principles of legislation. Of course different persons will come to different conclusions upon questions of fact. Every one will arrive at a conclusion in accordance with his own experience in life and his own mode of

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thinking. What will satisfy one may not satisfy another. But in order that the opinion might be practically worth anything, it should at least not be that of a mere theorist. People who have not had occasion to resort to coolie labour, or to something similar to that, may not be satisfied by what has been shewn to the Council of the necessity of the measure. But their opinions, although entitled to much weight in other matters, would be of no appreciable value for the present purpose.

Regard being had to what I have known of persons of a similar class as the coolies at other places, I am satisfied on the materials placed before the Council of the absolute necessity of a measure such as the one under the consideration of the Council.

I do not know what else should be shewn to the Council to justify the measure. The matter does not admit of mathematical demonstration or of statistical proof.

Before I sit down I must refer for a moment to a document which cannot be passed unnoticed on the present occasion, viz. the letter of the British Indian Association on the subject in question. I must confess that I do not find anything in that letter calculated to affect the opinion which I first expressed in the Council. Notwithstanding the arguments which have been advanced in that letter, I see no reason to alter my opinion on the Bill; and indeed after the letter has been examined what does it come to. It contains a great deal that is rather calculated to cheat the fancy and please the imagination than to appeal to reason and common sense. It indulges in vague generalities and makes copious use of expressions which sound very well to the ear. It talks of "the impressment of labour;" "the privileges of the Queen's loyal subjects;" "the helplessness of the coolie;" "his humble calling;" "the embargo on free labour;" &c., &c., and characterises the Bill as "unjust," "unfair," and "demoralizing," having for its object the "ostracism" of the coolie.

I am glad I am not knowingly abetting the initiation of a measure of the character described in the letter. The strong expressions used in the letter do not therefore affect my views.

The sting or the gist of the remonstrance contained in the letter is to be found in the following words:—"But if the well-to-do and powerful, who are in authority, or have influence over those in authority, be favoured with law to enforce the labour of the less fortunate, such legislation cannot but be regarded as unjust, unfair, and demoralizing." To my mind the fallacy of the argument contained in this passage is apparent, and that fallacy vitiates the whole of the letter which is otherwise a learned production.

It appears to me that in dealing with a measure of the kind under consideration you should rather look to the character, habits, and disposition of the coolies, *the persons employed than to the class of persons employing them.* If the coolies misconduct themselves at all, I would with as little hesitation vote for a law intended to relieve those not in power, as for the present Bill, that is to say, assuming that the Bill is only intended for the benefit of those in power. But I have no reason to think that the Lepchas make any distinction of class or creed. I think they are impartial in their misbehaviour, and their

misconduct is accompanied with the same ease of conscience in the case of a European Secretary as in that of a private Indian gentleman.

The letter, it is remarkable, admits that the coolies do misconduct themselves, for it says "the Committee do not for a moment doubt that complaints do exist as set forth in the Statement of Objects and Reasons." But still according to it no sufficient reason exists for legislative interference in consequence of the indefinite character of the complaints, and the indefinite body of persons who are affected by it.

But it appears to me that the complaints made are of so serious a nature, and disclose the existence of such a state of things, that absolute necessity is most completely made out, and that the Bill is strictly a justifiable measure according to highest authorities in such matters.

There is one matter, however, which I must explain, viz. the bearing of my amendment relating to section 5 of the Bill, upon the motion now before the Council. Notwithstanding that I have lost the amendment, which I may be allowed to observe has not had the support even of those hon. members who have just voted against the Bill, although they themselves had brought forward certain amendments of their own, I still vote in favour of the Bill. I am, however, bound to state that if the registration of coolies had been left optional, which would have been done if my amendment had been carried out, then I would have been perfectly satisfied with the Bill. Similarly, I would have been still more satisfied if the other amendments submitted by me (at least some of them, if not all) had found favour with the Council. These amendments, the Council will be pleased to observe, comprised matters relating to the four points to which I drew the attention of the Council when the Bill was referred to the Select Committee, and these points have received at the hands of that Committee such consideration as that Committee thought them deserving of.

But regard being had to the circumstance that other branches of industry are amply open to the coolies at Darjeeling and Kurseong, I do not suppose that the provisions of the Bill would operate with any very great degree of hardship on the coolie; and there being absolute necessity for the measure arising from a consideration of the general character of the coolies, I do not see any reason for withholding my vote from the Bill in consequence of what has transpired in the Council to-day.

The motion was then put, and the following division was taken:—

Ayes 9.	*Noes* 2.
Hon. Mahomed Yusuf.	Hon. Chunder Madhub Ghose.
Hon. Mr Caithness.	Hon. Harbuns Sahai.
Hon. Bhudeb Mookerjee.	
Hon. Mr. Allen.	
Col. the Hon. S. T. Trevor.	
Hon. Mr. Macaulay.	
Hon. Mr. Reynolds.	
Hon. Mr. Dampier.	
His Honor the President.	

So the motion was carried and the Bill was then passed.

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CONSTRUCTION AND MAINTENANCE OF TRAMWAYS.

COLONEL THE HON. S. T. TREVOR moved that the report of the Select Committee on the Bill to authorize the making and to regulate the working of Tramways in Bengal be taken into consideration in order to the settlement of the clauses of the Bill. He said :—"It may be in the recollection of the Council that, in presenting the report of the Select Committee on this Bill on the 17th February last, I mentioned that it was necessary under the standing orders of the Legislative Department to submit the Bill to the Government of India for approval of the penal clauses which are contained in it before proceeding further with the Bill. This was done, and I had hoped we should have received the reply of the Government of India before this. But though we have not received the reply as yet, I have ventured, with the permission of His Honor the President, to bring forward the Bill for final settlement to-day, as this is the last opportunity I shall have of doing so in the present session of the Council. The penal clauses of the Bill are, as I mentioned before, identical with those of the Calcutta Tramways Act, which again have been adopted in the Kurrachee Tramways Act. They have thus already twice received the sanction of the Government of India, and there is no reason to anticipate that any objection will be made to them. It would be unfortunate if the Bill were postponed to next session, for that might be detrimental to the progress of some tramway schemes which are being promoted, and the further prosecution of which is dependent on the passing of the Bill. I drew the attention of the Council to the prinicipal changes which were made in the Bill by the Select Committee when I presented the report, and I will not therefore detain the Council by any further remarks now. I beg to move that the report be taken into consideration in order to the settlement of the clauses of the Bill."

The motion was put and agreed to.

COLONEL TREVOR also moved that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The motion was put and agreed to.

The HON. MAHOMED YUSUF moved that the words "a fortnight" be substituted for "two calendar months" in line 3 of the proviso marked "fourth" in section 15. He thought two months was too long a period to allow for the construction of a quarter of a mile of tramway, having regard to the amount of work to be done, and he submitted that a fortnight was sufficient for the purpose.

COLONEL THE HON. S. T. TREVOR said he was not prepared to accept the amendment. He thought two months was not too much. The first draft of the Bill fixed six weeks as the period to be allowed, and it was pointed out that that was not sufficient for the purpose, and the Select Committee altered it to two months. The roads had often to be altered and bridges to be strengthened, and it might be quite as much work to be done as could be got through in two months. He therefore thought the words two calendar months ought to be allowed to stand.

The motion was then put and negatived, and the section as it stood in the Bill was agreed to.

The HON. MAHOMED YUSUF moved that in section 28 the word "framed" be substituted for "made" in line 1, and that the words "for the information of the public and after a period of two months they shall be revised and approved by the Government and published in the *Calcutta Gazette*," be inserted after the words "*Calcutta Gazette*" in line 4. He thought it was necessary that the public should be allowed an opportunity to consider the proposed rules before they were finally passed.

COLONEL the HON. S. T. TREVOR said that on receiving notice of this amendment his attention was drawn to the resolution of the Government of India on the subject of the publication of bye-laws for at least a month before they came into force. He was therefore willing to accept the principle of the amendment, and proposed to amend the section in the following manner, and he believed his honourable friend would raise no objection to the alteration in the wording which was proposed :—

"All rules and bye-laws made under sections 13, 26, and 27, and confirmed by the local Government, shall, when so confirmed, be published in the *Calcutta Gazette*, and such rules and bye-laws, when so published, shall, until repealed or altered, be of the same effect as if they had been inserted in this Act :—Provided that no rules and bye-laws shall be confirmed until they shall have been published for at least one month previously in the *Calcutta Gazette* and in one or more of the local newspapers (if any exist), which circulate in the district to which such rules and bye-laws relate."

The HON. MAHOMED YUSUF withdrew his motion in favour of COLONEL TREVOR'S amendment.

COLONEL TREVOR'S motion was put and agreed to, and the section as amended was passed.

The HON. MAHOMED YUSUF moved that in section 38 the words "except for national religious processions in connection with holidays on which Government offices are closed" be inserted after the word "section" in line 3 of the clause marked "4th." The object of this amendment, he said, was that the people should not have to pay when the running of the tramway was stopped for national religious processions. His attention was drawn to the scope of section 38, which, it was said, did not cover cases of this kind, and he was told that the proper section for the amendment was section 37. He did not object to the insertion of the words in the proper section, so long as what was contemplated in the amendment was provided for in the Bill.

COLONEL the HON. S. T. TREVOR said he was not prepared to accept the amendment. Section 38 applied to cases where the local authority had work to do on roads occupied by tramways, such as laying down pipes, &c., and had nothing to do with the stoppage of traffic for any other purpose except the work to be done. The regulation of traffic for police purposes was provided for in section 37, and that section was ample to cover all necessary powers for the purpose to which the amendment referred. The police might regulate processions, and so on, without paying compensation.

The motion was then put and negatived, and the section as it stood in the Bill was agreed to.

COLONEL the HON. S. T. TREVOR said the second amendment of his hon. friend, the principle of which he had accepted, led to the addition of certain words in section 13, and he therefore moved that in that section the words "add to or confirm" be substituted for "or add to."

The motion was put and agreed to, and the section as amended was passed.

COLONEL the HON. S. T. TREVOR moved that the Bill as amended be passed.

The motion was put and agreed to, and the Bill was then passed.

EXTENSION OF LOCAL SELF-GOVERNMENT.

ON the motion of the HON. MR. MACAULAY, the Hon. Chunder Madhub Ghose was added to the Select Committee on the Bill to extend the system of Local Self-Government in Bengal.

The Council was adjourned to a day of which notice will be given.

[*This leaf to be cancelled on the issue of Part II.*]

Reg. No. 16771G—200—27-4-83.

The motion was then put and negatived, and the section as it stood in the Bill was agreed to.

COLONEL the HON. S. T. TREVOR said the second amendment of his Hon. friend, the principle of which he had accepted, led to the addition of certain words in section 13, and he therefore moved that in that section the words "add to or confirm" be substituted for "or add to."

The motion was put and agreed to, and the section as amended was passed.

COLONEL the HON. S. T. TREVOR moved that the Bill as amended be passed.

The motion was put and agreed to, and the Bill was then passed.

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Saturday, the 1st December 1883.

Present:

The HON. H. L. DAMPIER, C.I.E., *Presiding.*
The HON. G. C. PAUL, *Advocate-General.*
The HON. H. J. REYNOLDS.
The HON. C. P. L. MACAULAY.
Colonel the HON. S. T. TREVOR, R.E.
The HON. J. E. CAITHNESS.
The HON. MAHOMED YUSUF.
The HON. HARBANS SAHAI.
The HON. CHUNDER MADHUB GHOSE.

STATEMENT OF BUSINESS BEFORE THE COUNCIL.

The HON. THE PRESIDENT said:—"I am sure that every Hon. Member will regret that the Lieutenant-Governor is unable to be in his place to-day, not only for the first meeting of the Session, but also to inaugurate the meetings of the Council in this hall. It will not be out of place to remind Hon. Members that the meeting of to-day puts the finishing touch to the execution of that idea, originated by Sir Ashley Eden, which, while providing a fitting habitation for the Government of this great Province, has at the same time contributed to the embellishment of what is, and from day to day is still more, becoming the most magnificent part of this City of Palaces. It is

usual for the Lieutenant-Governor at the opening of the Session to give an outline of the state of business and of the legislative measures which he proposes to introduce; and His Honor has asked me in his absence to say what he proposed to have said himself on this subject.

The Bill of the most importance and of the widest interest now before the Council is, of course, that connected with Local Self-Government. Hon. Members will remember that the Bill, as it is now before the Council, provides for a scheme which, generally speaking, takes the unions of villages as the lowest unit of administration, and above that the Local Boards, which would, generally speaking, correspond with sub-divisions. These are the executive authorities provided by the Bill, the control over which is vested in the Central Board. Since the last sitting of this Council, the scheme has been laid before the Secretary of State, who was unable to give his approval to that part of it which vests the control in a Central Board, on the general ground that he considered it undesirable to depart, so entirely as the Bill provides, from the ordinary and familiar system of administration which is in force, by excluding the District Magistrate and Divisional Commissioner from taking *any* share in the direct control of this branch of the administration, and vesting that control in a novel authority. The Government of India, therefore, have called on the Lieutenant-Governor to recast the scheme on these lines, and the Lieutenant-Governor has submitted his proposals, but as they are still under consideration, it would not be proper to speak more of them here. But I am to mention that His Honor hopes to be able to adhere to that part of the scheme which constitutes Unions and Local Boards, while modifying the portion of the scheme regarding control by a Central Board. With a view to ascertain by actual experiment how the division of the country into Unions will work in the most advanced districts, and with the view of clearing the way so as to lose no time in introducing the system as soon as the passing of the Bill shall have made it possible to do so, the Lieutenant-Governor has appointed an officer to make close enquiries in the most advanced districts. There appears to have been some misapprehension as to the object of Mr. Westmacott's special mission. I may here mention, with reference to a good deal on the subject I have read here and there, that Mr. Westmacott has been specially selected, because his previous utterances show him to be in entire sympathy with genuine and real self government. His special duty is to ascertain, in certain selected districts, of which Hooghly is one, how the details of this scheme, plotting out thanas and sub-divisions into Unions, will work; so that, as soon as the Bill is passed, the Lieutenant-Governor will be able to proceed with that knowledge of details before him as ascertained from actual experience There will still remain a great deal to be done, of course, for the whole of the constitution of Local Boards, and the assignment to them of funds by the Government will remain to be arranged by Government, even in those districts in which Mr. Westmacott has worked through the district officers beforehand. Nothing more, however, can be done with this Bill until the correspondence on the subject with the Government of India shall have been

The Hon. the President.

concluded. After that, the Lieutenant-Governor desires me to assure Hon. Members that nothing shall be wanting on his part to carry out the measure fully and promptly.

The next Bill before the Council is the Municipalities Bill. As my Hon. friend MR. REYNOLDS has a motion on the paper in connection with that Bill, I will leave him to explain to us presently the stage into which it has passed since the last meeting of the Council.

The third in the list of Bills actually before the Council now is one for the amendment of the Estates' Partition Act, 1876, regarding which I have a motion on the paper to-day asking the Council to allow the Bill to be read and referred to a Select Committee, of which I shall speak in another capacity.

Then as to proposed projects of legislation. Hon. Members are probably aware that a discussion has been going on for some four or five years between the Commissioners of the Calcutta Municipality and the Commissioners of the Suburbs, with regard to the supply of water to the latter. The Lieutenant-Governor is glad to announce that there is now a prospect of this discussion being brought to an end, and of some steps being taken in the matter. He has been able to bring about an understanding between the two bodies of Commissioners, by which they are amicably to decide the principle on which the charge for water is to be regulated. One of two principles will in all probability be adopted, and I will read the description from the letter of the Secretary to Government to the Chairman of the Municipal Corporation of Calcutta, "what principle should be adopted for the purposes of this calculation—whether the price of the water should be determined with reference to the cost of all works, or whether the Suburbs should pay separately (1) the interest on the capital expended on works constructed exclusively on their account, and (2) the price of the water as determined after deduction of the cost of these works—should at once be decided by arbitration." The principle is to be decided amicably outside the Bill between the two bodies of Commissioners, and then the Bill will provide that any dispute which may arise as to the application of that principle should be decided by arbitrators: for such arbitration the Bill will provide a scheme. Then it is found that for the Suburbs something more elaborate will be required in the way of rules for assessing and collecting a water-rate than those which are contained in the General Municipal Bill; therefore, as regards water-rates, the Suburbs will be excluded from the General Municipal Bill, and the Bill which it is proposed to introduce will contain special provisions in that behalf.

There is another project of legislation which the Lieutenant-Governor contemplates: it is the registration of tenures in the offices of the Collectors. Hon. Members have probably seen the report which the Lieutenant-Governor has sent to the Government of India on the Bengal Tenancy Bill, in one paragraph of which he mentions this project: the object will be to get tenures registered, the lines of the Land Registration Act for estates being followed as far as they are applicable. When that is done, it will be time to consider whether the facilities in collecting their rents (for which zemindars

are crying so loudly) by bringing tenures to summary sale without decree, cannot be given to them with regard to tenures which have been actually registered. And there will follow another result, which is that, when the registration of tenures shall be complete, it will probably be possible to do away with the legal presumption—well known as the twenty years' presumption—which so often has the effect of placing tenures, in respect of which no alteration of rents for twenty years can be proved, in the actual position of tenures which have been held at fixed rents since the time of the Permanent Settlement. I see that the Lieutenant-Governor in that letter speaks of the registration of tenures in a way which (I now am speaking for myself) seems to me to underrate the difficulties and vastness of this undertaking; and, certainly, if I had to advise, I should recommend that legislation on the subject should proceed tentatively, without anything like the provision there is in the Estates' Registration Act binding the Government to complete this registration within a few years. My idea would be to recommend that the Lieutenant-Governor should proceed, class by class; as for instance first to register all tenures paying above such an amount, and when that has been done, and these have been made saleable by summary process, then he may go a little lower, till he has exhausted the whole mass of tenures.

These are the remarks I have to add to those which I have been commissioned to make on behalf of the Lieutenant-Governor on this occasion. The Council will now proceed to the business of the day, but it will be more convenient if the third item of business is taken up first. I will therefore ask the Hon. MR. REYNOLDS to be good enough to proceed with his motion."

BENGAL MUNICIPALITIES.

The HON. MR. REYNOLDS said:—"When I had the honour, on the 21st of March last, to present the preliminary report of the Select Committee on the Municipal Bill, I remarked that I would not then invite the Council to enter upon any discussion of the provisions of the measure. The object of laying the Bill at that time before the Council was rather to elicit a further expression of public opinion on the scheme which the Select Committee desired to suggest for consideration, than to commit Hon. Members to an acceptance of the Bill in the form which it had then assumed. The Council was then pleased to agree to the proposal that the Bill should be republished and should be referred back to the Select Committee for further consideration and report. The Bill was accordingly republished, and a large number of opinions, remarks and criticisms have since been received, and have been considered by the Committee. The whole question has now been thoroughly ventilated, and I believe that in the course of another fortnight, the Select Committee will be ready to present their final report. Till that report is presented, the remarks which I have to make upon the Bill, must, of course, be reserved; but it will, I believe, be some satisfaction to Hon. Members to know in what position the question stands at present, and to receive an assurance that the Select Committee is likely to complete its labours without much longer delay.

The Hon. the President.

The decision of the Secretary of State regarding the Central Board has made it necessary to modify the wording of a good many sections of the Bill. The duties which in the former draft were assigned to the Central Board will now be performed, partly by the Local Government and partly by the Commissioners of Divisions. But this change tends in one way to facilitate the early passing of the Bill. It was previously intended that this Municipal Bill and the Local Self-Government Bill should proceed *pari passu*, should be passed together, and should come into operation at the same time. This arrangement would have been necessary, if the Central Board had been the controlling authority for both Municipalities and Local Boards. But now that the proposals of the Bengal Government for the establishment of a Central Board have been disallowed, there is no reason why the Municipal Bill, which is in a more forward state than the Local Self-Government Bill, should be deferred till the latter measure is ready to pass the Council. I therefore hope to be able to invite the Council to take the Municipal Bill into consideration in the course of the present month; and accordingly I now move that the Select Committee be allowed a further period of one month before presenting its final report."

The motion was put and agreed to.

PARTITION OF ESTATES.

The Hon Mr. Dampier said that during the last Session he obtained the permission of this Council to introduce a Bill for the amendment of the Estates' Partition Act, 1876. The grounds upon which the Government came to this Council to pass this Bill he then fully explained, and he need not go over them again, beyond reading over the printed Statement of Objects and Reasons, which was as follows:—

"The Partition of Estates under the existing law now makes such demands on the time and attention of Revenue Officers in some districts as seriously to interfere with the discharge of their other duties.

"Of late years the Legislature has provided means short of a complete separation of the liability for land revenue by which a joint proprietor can, to a great extent, protect himself against the consequences of default by his co-parcener.

"The object of the Bill is to relieve Revenue Officers of the duty of making partitions, of which the effect will be to create separate estates liable for an annual amount of land revenue not exceeding Rs. 10, as the public inconvenience caused by their employment in this duty now outweighs its advantages.

"The proprietors of joint interests in estates, who will be precluded from applying for partition by Revenue Officers, will now be placed, in respect of separation of their shares, in the same position as the joint holders of a tenure, who have no right against their landlord of splitting up the tenure."

That was to say, they would be so placed, if there was any other machinery provided by law for affecting such partition. But it so happened that the Code of Civil Procedure did not allow the civil courts to make partitions of revenue-paying estates. When any such partition was decreed by a civil court, it called upon the revenue authorities to carry it out under the provisions of the Estates

Partition Act of 1876 ; so that if certain classes of partitions of estates were, by the legislation now proposed, excluded from the jurisdiction of the revenue authorities, the proprietors of interests so excluded would be without any means of obtaining separation of lands from their co-parceners. To remedy this, the Governor-General in Council has agreed to introduce a Bill into His Excellency's Council modifying those clauses of the Code of Civil Procedure which bar the Courts from making such partitions. Therefore he had only to repeat that the effect of the two Bills will be to place the owners of, presumably, petty estates, which will not be liable for the payment of revenue above ten rupees, in precisely the same position as the holders of large valuable tenures are with regard to separation of their interests from those of their joint holders. He moved that the Bill to amend the Estates' Partition Act, 1876, be read in Council.

The motion was put and agreed to.

The Hon. Mr. Dampier also moved that the Bill be referred to a Select Committee to carry out the decision of the Council adopting the principle of the Bill, and to report thereon in one month.

The Hon. Harbans Sahai said that, following the procedure adopted in the case of the Local Self-Government Bill, he would at this stage take the opportunity of submitting the objections which he entertained to the principle of the Bill, which he thought was so bad that the Bill should not be referred to a Select Committee. The Hon. Member, in his Statement of Objects and Reasons, was pleased to intimate that the necessary steps would be taken to amend the Civil Procedure Code so as to authorise the Civil Courts to effect the partition of estates, the annual value of which would be below Rs. 10. He did not see why there should be two concurrent jurisdictions in cases of partition affecting the same estate—in the revenue authorities in cases in which the revenue of the separate estates might exceed Rs. 10, and in the Civil Courts where the separately rated revenue might be less than Rs. 10. The principle of the Bill, he said, was bad, because the Civil Courts had not a proper and sufficient staff of ameens and others to carry out the partition of estates, and a double staff of ameens would be necessary—one in the Civil Court and the other under the revenue authorities. He also contended that the Bill would not work in practice, because, although the share of the first applicant for partition might have a *jumma* above ten rupees, in the course of partition it might turn out that there were other applicants, sharers in the same estate, whose *jumma* was below that amount. Were the revenue authorities to proceed with the partition, or to transfer the proceedings to the Civil Court? The same objection would apply where the original application was made to the Civil Court by a sharer whose *jumma* might be less than Rs. 10.

If the Hon. Member proposed that the whole jurisdiction in partition cases should be removed from the revenue authorities and transferred to the Civil Courts, the Hon. Harbans Sahai would be the first to hail such a transfer of jurisdiction; but he certainly thought it objectionable to vest the Civil Courts with jurisdiction in partition cases of the smaller classes when they had no proper staff for the purpose.

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Then the first reason which the Hon. Mover alleged for the introduction of the Bill was, that the partition of estates under the existing law now made such demands on the time and attention of revenue officers in some districts as seriously to interfere with the discharge of their other duties. He would ask the Council whether the work of the Civil Courts was light, and whether they had time at their disposal to attend to the work which it was proposed to hand over to them. Was it not a fact that rent and other civil suits were being so much multiplied that in almost every district the Government was obliged to appoint additional Munsifs? If that was a fact, then the very reason which was assigned for the removal of these cases from the jurisdiction of the revenue authorities applied equally to the Civil Courts, which were overworked.

Then another cogent reason against the Bill was this, that these partitions having been up to the present time in the hands of the revenue authorities, if the Collectors were generally assisted, as in some districts they were, by a special Batwarrah Deputy Collector, they would be the proper authorities to effect all partitions. In partition cases it was necessary to refer to the jummabundi papers, to make local inspections, and do many other things with which the revenue officers were well acquainted, and to which they had ample time to do justice. But the Civil Courts, from the very nature of partition cases, would not be so competent as the revenue authorities. The case would, however, be altogether different if the partition of all estates was made over to the Civil Courts with a proper establishment provided for the purpose, but the principle of making over to them the partition of petty estates only was, he thought, a bad one.

It had been said that the Council of the Governor-General would be asked to make the necessary amendment in the Code of Civil Procedure; but suppose that Council rejected the Bill, what then would be the result? How would the partition of small estates be then effected?

Then it was stated by the Hon. Mover that the public inconvenience caused by the employment of the revenue authorities in the partition of very small estates now outweighed its advantages. To this, Babu Harbans Sahai begged to enter his humble protest, especially as regards the partition of estates in Behar. He might inform the Hon. Mover that in that Province there were many valuable estates yielding large profits, the public revenue of which was merely nominal. The fact was that at the time of the decennial settlement the districts were covered with jungle and waste lands, and the Government revenue was a nominal sum. Now that the jungle had been cleared away and the waste lands cultivated, the estates so nominally assessed had become valuable property and their gross rental was enormous. The principle that the amount of Government revenue payable on any estate should be the index to its value, or to the gross produce of the estate, was, he thought, erroneous. In many cases it might be just the reverse.

Again, the Collector had hitherto been considered as a necessary party to the partition of estates, because it was not only the interests of the party that had to be consulted, but also the interest of the Government. There might be collusive partitions between the parties by which one sharer might

be allotted the worst description of land which did not yield sufficient to meet the amount of Government revenue assessed upon it. The consequence would be that the separate estate so created would default.

[The Hon. Mr. Dampier explained that the Hon. Member was speaking under a misapprehension. He had stated that the proprietors of revenue-paying estates who would be excluded under this Bill from getting a partition made by the revenue authorities would be placed precisely in the same position as the joint proprietors of tenures which were indefeasible as against the zemindar; that was to say, they would lose the right to have their estates made separately liable to their share of the Government revenue.]

The Hon. Harbans Sahai continued:—Every joint proprietor had an inherent right to have the Government revenue partitioned. At present a shareholder, however small his share might be, had every right to go to the Collector and ask for a division of the land and the apportionment of the revenue payable by him, in order that he might no longer be held responsible for the default of his co-sharers. This was a right which he justly had, and on what ground was he to be deprived of that right? It was not an imaginary right, but a substantial one. For once his liability for revenue was fixed and not dependent upon what his co-parceners might do, he could safely absent himself from his property after making sufficient arrangements to meet his separate liability. But now he was to be deprived of that right for no fault of his own.

He thought the Bill was based on a very illiberal and unsound principle, inasmuch as it threw on the already overworked Civil Courts a portion of the work for which it was alleged the Collector had no time, whilst the work of partition of larger estates would be carried on as usual by the revenue authorities.

The Hon. Mahomed Yusuf submitted that the further consideration of the motion before the Council should be postponed to the next meeting; for this reason, namely that, although the Members of the Council had notice of this Bill at the last session, there were certain observations regarding the scope of the Bill which he thought ought to be made before the Bill was referred to a Select Committee, and he for one was not aware that all he had to say should be said at this the first meeting of the present session of the Council.

The Hon. Chunder Madhub Ghose asked whether it was proposed by this Bill that there should be no partition of an estate on the partition of which, when made, any estate created thereby might yield a revenue not exceeding Rs. 10. Suppose an estate now yielded Rs. 1,000 a year, and a shareholder who paid Rs. 100 annual revenue were to apply for partition of that estate, the Collector would be bound under this Bill to proceed with the case. But it might turn out on partition being made that one of the shareholders who owned a one-pie share in the estate would have to pay an amount of annual revenue less than Rs. 10, consequently, although the whole estate paid

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a jumma of Rs. 1,000, and the shareholder who applied for partition actually paid Rs. 100 out of that jumma, the partition could not be made by the Collector, because it would bring out an estate whose jumma would be less than Rs. 10. If that was the case, the Bill would work serious hardship, because there were many estates in which there were some very small shareholders, whilst large shares were held by others.

The Hon. Mr. Dampier said he fully appreciated the difficulty which had just been referred to. He had already said that it had occurred to him to suggest to the Select Committee whether a partition, such as the Bill excluded, might not be allowed to be made as part of proceedings which were actually going on for dividing an estate into other estates bearing a larger amount of revenue than Rs 10. The principal object of the Bill was to relieve the revenue officers of an excess of business, and if that was secured he would not object to the consideration of any suggestions which would tend to meet objections.

The Hon. Mr. Reynolds said, that in the case put by the Hon Member to his right (Babu Chunder Madhub Ghose) it seemed to him that the difficulty would not arise at all. He supposed a case where an estate had a revenue of Rs. 1,000, and where a shareholder in that estate whose revenue amounted to Rs. 100 applied for partition: that merely involved the partition of an estate into two shares—one of Rs. 100 and one of Rs. 900. There was nothing in the Bill which would prevent such a partition taking place, even though there were other small shareholders whose shares of the Government revenue would respectively be less than Rs. 10. But the Collector had nothing to do with that All he had to do was to see that the partition of the shares of the applicants would not result in creating estates with a revenue less than Rs. 10. Mr. Reynolds did not think that the objection which had been taken would apply.

The Hon. Mr. Dampier said in reply, that the partition of an estate by the revenue authorities originated from an application made by one sharer for separation of lands representing his share, and of his liability for land revenue from those of his co-proprietors. For the purposes of illustration he would say that in each proceeding for partition, the proprietors of the estate concerned were divided into two great classes—applicants for the partition of their respective shares, and non-applicants. Now let it be supposed that A came forward and applied to have partition of such an estate made for the purpose of separating off lands representing his interest; and also for separating off his liability for a proportionate share of the land revenue, all the rest of the proprietors being non-applicants. If the proportionate share of land revenue, for which A's estate would be liable after separation for land revenue assessment were Rs. 100, the Collector would say: "there is no objection so far as your share is concerned, as the jumma will be above Rs. 10; but by the partition two new estates will be created, one belonging to the non-applicant. In order to comply with the law I have to see that the jumma of that estate, the residuary estate as it is called, will not be less than Rs. 10."

If the Collector found that the jumma of the non-applicant's separate estate would be above Rs. 10, he would admit the application of A for the partition of the estate. If he found the jumma of the residuary estate would be only Rs. 9, he would say: "I cannot admit this application of A for splitting up this estate of Rs. 109, into two estates of Rs. 100 and Rs. 9 respectively, because 9 is less than 10, and therefore this partition cannot be admitted." The usual course of things was that when once A applied for separation of his share (and so forced the trouble, harassment, and expense of partition proceedings on his joint proprietors, whether they liked it or not) other shareholders B, C, and D would come in and say:—"We have this trouble put upon us; let us have the advantage of separation of our shares also." In dealing with these subsequent applications, the Collector would apply precisely the same principles. If the jumma of each separated estate would be above Rs. 10, he would carry out the separation: any application of which the effect would be to create a separate estate with a jumma of less than Rs. 10 he must reject. And here MR. DAMPIER might mention that the object of the Bill being to prevent an insurmountable quantity of work falling on the revenue authorities, it had occurred to him to suggest for the consideration of the Select Committee whether even an application which would have the effect of creating an estate bearing a jumma of less than Rs. 10 might not be allowed, provided that it was presented to the Collector during the progress of proceedings under the Act for the separation of the parent estate into two or more estates, each bearing a higher jumma.

MR. DAMPIER thought he had now answered the objection of the Hon. Member on his right (BABU CHUNDER MADHUB GHOSE) and the last objection raised by the Hon. Member opposite (BABU HARBANS SAHAI). Another objection of the last named Hon. Member was that the Civil Courts had no more time at their disposal than the revenue authorities, and that therefore the proposed duty should not be thrown on them.

As a general proposition he would venture to ask whose duty it was to decide as to rights between man and man. Was it the duty of the Civil Courts or of the revenue authorities? He supposed it would not be denied that it was the duty of the Civil Courts. Then what excuse was there for the revenue authorities to interfere at all in the partition of estates? The excuse was that the safety of the Government revenue was concerned in the separation of the joint liability for revenue, and therefore in view of the paramount interests of the State revenue special jurisdiction was given to the revenue authorities in this particular class of adjudications on rights between man and man. On that ground only were the revenue authorities authorized by law to make these partitions. Now the Bill entirely removed that special ground for the exercise of jurisdiction by the revenue authorities, inasmuch as it provided that the liability for revenue up to the amount of Rs. 10 should not be separated off from the joint liability; therefore the special reason for leaving this particular class of cases in the hands of the revenue authorities no longer existed. The Hon. Member also said that it was not right to take the

amount of Government revenue as the standard of importance of proceedings. MR DAMPIER would reply that the amount of land revenue involved was precisely the measure of the reason for employing the revenue authorities to do work which, irrespectively of that consideration, was the proper work of the Civil Courts.

The Hon. gentleman had said that the Civil Courts had no establishment for this work. To that MR. DAMPIER could only say that the Executive Government of India was willing to introduce a Bill leaving the work to the Civil Courts, in face of which he found it difficult to accept the Hon. Member's opinion that those Courts would be unable to cope with it.

Then the Hon. Member also suggested the dead-lock which might arise if the Legislative Council of the Governor-General, after this Council had passed this Bill, should refuse to modify the section of the Civil Procedure Code. MR. DAMPIER would remind him that Bills of this Council were subject to the *veto* of the Governor-General, and therefore Mr. Dampier supposed that where two measures of this kind were intimately connected with each other, the Governor-General would keep the approval of this Council's Act in suspense, until His Excellency very clearly saw his way to the other part of the measure being carried in his Legislative Council.

Another objection made was that in some estates the liability for Government revenue was very small, whilst the value of the zemindar's interest was enormous. But in making this objection, the Hon. Member had entirely passed over that part of the Statement of Objects and Reasons and of Mr. Dampier's former speech, which dwelt on the facilities which legislation had provided of late years to joint proprietors for protecting themselves from the default of their co-parceners. He quite admitted that no other means were provided for giving such ultimate and complete protection as the Batwarrah law gave, but the protection given by other means was real and substantial, and ought to be sufficient for safety to any prudent man. Separate accounts might be opened; and not only so, but in those estates of which the value was "enormous" and the amount of Government revenue trifling, as stated by the Hon. Member, it would be no great hardship for any proprietor to avail himself of the protective right of depositing Government securities in the hands of the Collector for the purpose of meeting the revenue of the estate in the event of the default of his co-sharers, and thus absolutely free himself from any risk that his co-parceners might play him false by withholding payment. All reasonable protection was thus given.

Then as to the question of public convenience and as to the Collector having time to undertake partition proceedings, MR. DAMPIER must say that, if the Council entertained this discussion, they would be precisely at the point at which they were when the principle of the Bill was first proposed to this Council. However, superficially, Hon. Members might have looked at the proposal before the principle of the Bill was accepted by the Council, it could scarcely be said that they had failed to catch that the appeal to this Council was made by the Executive Government on the one ground that relief was required for the Collectors. MR. DAMPIER presumed that he would not be called upon to take

up the time of the Council by going over the same ground again. He therefore pressed the motion which he had made to refer the Bill to a Select Committee.

After some conversation the motion was put and carried, and the following Members were appointed to form the Committee:—The Hon. Mr. Reynolds, the Hon. Harbans Sahai and the Mover.

The Council was adjourned to Saturday, the 8th December 1883.

By subsequent order of the President the Council was further adjourned to Saturday, the 15th December 1883.

Saturday, the 15th December 1883.

Present:

The Hon. G. C. Paul, *Advocate-General*, C.I.E., *Presiding.*
The Hon. H. L. Dampier, C.I.E.
The Hon. H. J. Reynolds.
The Hon. C. P. L. Macaulay.
Colonel the Hon. S. T. Trevor.
The Hon. J. E. Caithness.
The Hon. Harbans Sahai.
The Hon. Chunder Madhub Ghose.

SUBURBAN WATER-SUPPLY.

The Hon. Mr. Macaulay moved for leave to introduce a Bill to provide for the supply of filtered water within the Municipality of the Suburbs of Calcutta. He said—"I have been entrusted with the duty of submitting to the Council a Bill to provide for the supply of filtered water within the Municipality of the Suburbs of Calcutta, and I have now the honour to move for leave to introduce such a measure. I need hardly remind the Council that this is not the first occasion on which the subject of the metropolitan water-supply has engaged its attention, and Hon. Members who read their newspapers, though I cannot suppose that they have any very clear idea how matters stand at present, are doubtless aware that, at one stage or another, the question has been before the Corporations of Calcutta and the Suburbs for some years, and that a protracted, if fitful, battle of the schemes has been proceeding in the midst of this peace-loving community. The first chapter of its history,—a history extending over about three years,—was lucidly narrated by my Hon. predecessor, Mr. Mackenzie, in the debate of 2nd April 1881, when Act VI of that session of the Council was passed. The materials for a bulky second, and I hope last, chapter, extending also over about three years, are now available. I do not propose, however, to detain the Council with a review of this mass of fascinating literature, or to describe the circumstances under which the many Municipal Commissioners who have applied their minds to the subject have successively entertained a preference for a masonry

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conduit, an open cut and an iron main, discussed the merits of cement collar-joints, and weighed the respective advantages of masonry and earthen settling tanks. These monumental records now possess an antiquarian rather than a practical interest, and I may dismiss the historical part of the subject by congratulating the Council that, whereas in 1881 they had to deal with an unsettled question, we are to-day in the satisfactory position of dealing with an accomplished fact. In April 1881, the Calcutta Municipality was still pondering the project of a masonry culvert. In December 1883, they have already obtained the sanction of Government to the purchase of a 48-inch iron main, which will provide a daily supply of 12,000,000 of gallons of filtered water, and the materials are, I understand, already on the way from Europe. I think, Sir, that the inhabitants of this great city may be congratulated that at last a really practical step has been taken towards the accomplishment of a measure which is essential to its well-being and salubrity. The youth of the water extension scheme has been one full of pain and peril; it suffered from many virulent attacks, chiefly of talk, which caused grave anxiety to its friends, and at times its condition was most precarious; but I am happy to say that it has at length emerged from this period of trial, and that we shall soon see it flourishing in healthy and prosperous maturity.

The circumstances under which it has been found necessary to introduce a separate Bill for the regulation of the water-supply in the Suburbs are briefly these. Act VI of 1881 amended section 160 of the Calcutta Municipal Act by authorizing the Local Government to include any portion of the environs of the Town in the Calcutta system of water-supply, the Calcutta Corporation assessing a separate water-rate upon such portion, not exceeding the maximum leviable under the Act, and the Commissioners of the Municipality arranging for the detailed assessment and collection of the rate. The portion thus included would become, for the purposes of the water-supply, a part of Calcutta, and the Corporation of Calcutta would be responsible for supplying it with water like any other part of the Town; and inasmuch as the water-rate in Calcutta, after the extension of the new supply, will be assessed at nearly maximum rates, it would have to supply it on practically similar terms. The Calcutta Municipality was thus to be responsible, not only for bringing the water to the boundary of the affiliated tract, but for distributing the water throughout it. Mr. Harrison, in a very able memorandum, dated 31st October 1881, pointed out the objections to the latter portion of this arrangement. I cannot do better than, with the permission of the Council, read portions of Mr. Harrison's Minute. He said:

"'In Calcutta the law requires us—(*a*) 'to cause such mains and pipes to be laid, and such tanks, reservoirs, or other works to be made or constructed as shall be necessary for the supply of filtered water in all the chief public streets;' (*b*) for fifteen hours every day, so far as may be reasonably practicable, to 'keep and maintain in the pipes and mains a sufficient supply of filtered water under a pressure of not less than 10 feet for the domestic use of the rate-payers;' (*c*) and for three hours daily to maintain a pressure

'sufficient to raise the water in all houses and places in which the same may be introduced to a height of not less than 50 feet.' The above are the chief liabilities which we should incur. That marked (*c*) we are not now able to discharge even in Calcutta, and I will assume that it would be a dead letter in the Suburbs. The liability to raise water 50 feet high in a house in Garden Reach is one which it would not be easy to enforce without a separate pumping station and reservoir for that Suburb only; but take the liability marked (*b*), that of keeping up 10 feet pressure throughout the day, and see what it involves. We are now only bound to keep up that pressure to the southern edge of Calcutta, but what would become of it by the time it reached Bhowanipore, Alipore, Kidderpore, not to mention Garden Reach! We every night now have to pump water from Tallah into the Wellington Square reservoir; and such is the effect of distance and friction in diminishing pressure, that I am informed that, if we pump through the independent 24-inch main only at the normal velocity, it takes a pressure of 40 feet at Tallah to yield 10 feet pressure at the reservoir. This one fact surely speaks volumes as to the difficulty of supplying the Suburbs to the south of Calcutta. Tallah is about four miles from Wellington Square, and the friction in a 24-inch main is much less at the same velocity than in the smaller distributing pipes which would be necessarily used in the Suburbs. I think I must be well within the mark in saying that Wellington Square would not only require to have its pumping power greatly increased, but also to pump all day at a higher pressure than it now does for five hours only in order to give the required pressure of 10 feet to the Suburbs, and even then it would fail in the more distant places."

Mr. Harrison came to the conclusion that the community of system and control should terminate with the delivery of the filtered water at Tallah, each Municipality sharing in this expenditure in proportion to the water required by it, and then undertaking the responsibility of its own distribution. This view has been accepted by Government, and the Bill, which I hope to have the honour of submitting to the Council, will provide that the Suburban Municipality shall pay the Calcutta Municipality for the water supplied to it, and shall take its own measures for distributing the water. There was, however, a very important point to be settled before legislation could proceed. Could the Suburbs on these terms afford to join in the scheme at all? Was Calcutta to look to such extension as might provide for its own wants only, or was it to make deliberate provision for the wants of the Suburbs also, and in the latter case how was it to be guaranteed against loss? The Suburbs could decide nothing until they should know approximately how much they would have to pay. The Calcutta Commissioners, not knowing what they were going to do for themselves, were naturally unable to say what they could do for any one else. As a contribution to the settlement of the difficulty, Sir Ashley Eden, just before he left the country, with the liberality which always characterised his action in regard to any question of municipal improvement, offered the Suburbs a contribution of Rs. 50,000 in the first year and Rs. 30,000 in each

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of the succeeding four years, on condition that the distribution works should be commenced by 1st January 1883, and that the Suburban Commissioners would consent to take the water from the Calcutta Municipality at prime cost as determined by arbitration. But at this time the Calcutta scheme was in what may be termed the "open-cut stage;" in fact everything connected with it was open; and so matters dragged on. The Suburban Commissioners could not tell how much water they could afford to take without knowing how much they would have to pay for it; the Calcutta Commissioners would not entertain the question of cost without knowing how much would be required. At length the matter was taken up in earnest by the new Commissioners elected in October 1882, the open cut and masonry culvert were both discarded, and it was decided that the wants of the Town could be fully provided for by a 42-inch iron main, which could produce 8,000,000 gallons a day. If the Suburbs required 2,000,000 a day, a 45-inch main must be laid; if they required 4,000,000 a day, a 48-inch main must be laid, and in either case the additional cost was indicated. Here at length the Suburban Commissioners had a definite issue before them, and they were at once able to say that their resources would not enable them to contract to take more than 2,000,000 gallons a day. They would be very glad if a 48-inch main could be laid, so that hereafter they might be able to take more water; but as this would cost about Rs. 21,000 a year more than the 45-inch, it was out of their power to pay for it, even if Government would consent to keep open Sir Ashley Eden's offer. Now, Sir, Mr. Rivers Thompson considered that this would be a very regrettable conclusion. On the one hand the Calcutta Corporation could not be expected to construct for itself anything more than a 42-inch main, and there was no probability that it would require a further supply within any period to which reasonable anticipation could extend. On the other hand the Suburbs are rapidly increasing in importance, and it would be a grievous pity that they should be indefinitely restricted to a daily supply of 2,000,000 gallons only of filtered water. In these circumstances, Mr. Rivers Thompson determined to come to the assistance of the Suburban Municipality and place them in a position to guarantee the extra cost of providing a 48-inch main, so that they might be able, as their circumstances permitted, to pay for and distribute any quantity up to 4,000,000 gallons a day. He relieved them of police charges, amounting to about Rs. 35,000 a year, on condition that the sum to be paid to the Calcutta Municipality should be the first charge upon the income thus set free. These terms have been accepted, and, as I have said, the 48-inch main has been ordered from England. The Bill will provide for an arrangement such as was contemplated by Sir Ashley Eden when he made his offer of assistance to the Suburban Municipality. The principle upon which the price of the water is to be calculated will be settled between the Municipalities, the Suburban Municipality will have power to raise a rate of 6 per cent., and to provide for the details of distribution and the like, and the payment to Calcutta will be the first charge on the net proceeds of the rate. Should any dispute arise

regarding the amount claimed, or any other matter connected with the water-supply, it will be settled by three arbitrators—one to be appointed by Government, and one to be appointed by each of the Municipalities. With these remarks, I have the honour to move for leave to introduce the Bill.

The motion was put and agreed to.

The HON. THE PRESIDENT, in adjourning the Council, said that in the ordinary course the Council would stand adjourned to Saturday next, the 22nd instant, but owing to there not being sufficient legislative work in hand, and to the approaching holidays, the Council would be adjourned to Saturday, the 5th January next. The interval covered by the postponement would, no doubt, be utilized in advancing the Bills now before Select Committees, in order that, when the Council next met, there might be one or more Bills ready to be dealt with.